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Aug 08 2017

August 8, 2017

VIA ELECTRONIC FILING

Ms. M. Lynn Jarvis, Chief Clerk
North Carolina Utilities Commission
Dobbs Building
430 North Salisbury Street
Raleigh, North Carolina 27603

Re: Docket No. E-100, Sub 148

Dear Ms. Jarvis:

On behalf of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, enclosed for filing in the above-referenced docket is Duke Energy Carolinas, LLC's, Duke Energy Progress, LLC's, and Dominion Energy North Carolina's Joint Motion to Submit Session Law 2017-192 as Additional Authority.

Please do not hesitate to contact me if you have any questions. Thank you for your assistance in this matter.

Very truly yours,

/s/E. Brett Breitschwerdt

EBB:kjg

Enclosures

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 148

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | |
|---|---|
| <p>In the Matter of</p> <p>Biennial Determination of Avoided Cost)</p> <p>Rates for Electric Utility Purchases from)</p> <p>Qualifying Facilities – 2016)</p> <p>)</p> <p>)</p> <p>)</p> | <p>DUKE ENERGY CAROLINAS, LLC’S,</p> <p>DUKE ENERGY PROGRESS, LLC’S,</p> <p>AND DOMINION ENERGY NORTH</p> <p>CAROLINA’S JOINT MOTION TO</p> <p>SUBMIT SESSION LAW 2017-192 AS</p> <p>ADDITIONAL AUTHORITY</p> |
|---|---|

NOW COMES Duke Energy Carolinas, LLC (“DEC”), Duke Energy Progress, LLC (“DEP”), and Dominion Energy North Carolina, formerly Dominion North Carolina Power (“Dominion Energy North Carolina”) (collectively, the “NC Utilities”), and hereby motions the North Carolina Utilities Commission (“Commission”) to take into consideration Session Law 2017-192, attached hereto as Attachment A, in its determinations in this proceeding, and to provide the NC Utilities any further guidance that the Commission determines appropriate, as discussed herein.

1. On June 22, 2016, the Commission issued its *Order Establishing Biennial Proceeding, Requiring Data, and Scheduling Hearing* in the above-captioned docket, initiating this proceeding to establish biennial standard offer avoided cost rate tariffs and terms and conditions for the NC Utilities pursuant to the Commission’s implementation of Section 210 of the Public Utility Regulatory Policies Act of 1978 (“PURPA”), as well as N.C.G.S. § 62-156(b).

2. On November 15, 2016, the NC Utilities filed Initial Statements and Exhibits presenting proposed standard offer avoided cost tariffs and terms and conditions, as directed by the Commission. Specifically, DEC filed proposed Schedule PP and

Schedule PP-H, DEP filed proposed Schedule PP-3 and Schedule PPH-1, and Dominion Energy North Carolina filed proposed Schedule 19-FP and Schedule 19-LMP. The NC Utilities' proposed avoided cost tariffs and terms and conditions have been offered to qualifying facilities ("QFs") since November 15, 2016, on an interim basis, subject to potential true up upon a final determination by the Commission as to their reasonableness and appropriateness and conformance to the requirements of PURPA and N.C.G.S. § 62-156(b).

3. Pursuant to the Commission's December 30, 2016 *Order Scheduling Evidentiary Hearing and Amending Procedural Schedule*, the Commission received evidence and held hearings in this proceeding on February 21, April 18, April 19, April 20, and April 21, 2017, at which time the hearing concluded. Briefs and proposed orders were filed by the NC Utilities, the Public Staff-North Carolina Utilities Commission ("Public Staff"), and other parties on June 22, 2017, as directed by the Commission.

4. As the Commission is aware, Session Law 2017-192 became law on July 27, 2017.¹ Part I of Session Law 2017-192 amends N.C.G.S. § 62-156(b), and applies to the Commission's determination of the NC Utilities' standard offer rates and terms and conditions on or after the effective date. *See* Session Law 2017-192, Section 1.(d). The NC Utilities submit that Session Law 2017-192 has resolved or render moot certain issues presented by the NC Utilities and other parties to this proceeding, as well as caused certain aspects of the NC Utilities' respective proposed avoided cost tariffs to now be inconsistent with North Carolina law.

¹ On July 28, 2017, the Commission initiated a rulemaking proceeding in Docket No. E-100, Sub 150 in response to Part II of Session Law 2017-192.

5. After consulting with the Public Staff, the NC Utilities submit Session Law 2017-192 as additional authority to the Commission for its consideration in deciding the legal and policy issues now pending before the Commission in this proceeding. Recognizing that the evidentiary proceeding has concluded and the record is now closed, the NC Utilities respectfully request the Commission consider Session Law 2017-192 in its determination in this proceeding and direct any further action by the NC Utilities or other parties that the Commission deems reasonable and in furtherance of the public interest at this time.

WHEREFORE, Duke Energy Carolinas, LLC, Duke Energy Progress, LLC, and Dominion Energy North Carolina respectfully submit Session Law 2017-192 as additional authority for the Commission's consideration in this proceeding.

Respectfully submitted, this the 8th day of August, 2017.

/s/E. Brett Breitschwerdt

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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**SESSION LAW 2017-192
HOUSE BILL 589**

AN ACT TO REFORM NORTH CAROLINA'S APPROACH TO INTEGRATION OF RENEWABLE ELECTRICITY GENERATION THROUGH AMENDMENT OF LAWS RELATED TO ENERGY POLICY AND TO ENACT THE DISTRIBUTED RESOURCES ACCESS ACT.

The General Assembly of North Carolina enacts:

PART I. STANDARD CONTRACTS FOR SMALL POWER PRODUCERS

SECTION 1.(a) G.S. 62-3(27a) reads as rewritten:

"(27a) "Small power producer" means a person or corporation owning or operating an electrical power production facility ~~with a power production capacity which, together with any other facilities located at the same site, does not exceed 80 megawatts of electricity and which depends upon renewable resources for its primary source of energy. For the purposes of this section, renewable resources shall mean: hydroelectric power. A small power producer shall not include persons primarily engaged in the generation or sale of electricity from other than small power production facilities.~~ that qualifies as a "small power production facility" under 16 U.S.C. § 796, as amended."

SECTION 1.(b) G.S. 62-156 reads as rewritten:

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

(a) In the event that a small power producer and an electric public utility are unable to mutually agree to a contract for the sale of electricity or to a price for the electricity purchased by the electric public utility, the ~~commission~~ Commission shall require the electric public utility to purchase the power, under rates and terms established as provided in ~~subsection (b) of this section~~ subsection (b) or (c) of this section.

(b) ~~No later than March 1, 1981, and at~~ At least every two years thereafter, ~~years,~~ the ~~commission~~ 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:

- (1) ~~Term of Contract.~~ Standard Contract for Small Power Producers up to 1,000 kilowatts (kW). – The Commission shall approve a standard offer power purchase agreement to be used by the electric public utility in purchasing energy and capacity from small power producers subject to this subsection. Long-term contracts up to 10 years for the purchase of electricity by the electric public utility from small power producers with a design capacity up to and including 1,000 kilowatts (kW) shall be encouraged in order to enhance the economic feasibility of these small power production facilities; provided, however, that when an electric public utility, pursuant to this subsection, has entered into power purchase agreements with small power producers from facilities (i) in the aggregate capacity of 100 megawatts (MW) or more and (ii) which established a legally enforceable



obligation after November 15, 2016, the eligibility threshold for that utility's standard offer shall be reduced to 100 kilowatts (kW).

- (2) Avoided Cost of Energy to the Utility. – The rates paid by ~~a~~an electric public utility to a small power producer for energy shall not exceed, over the term of the purchase power contract, the incremental cost to the electric public utility of the electric energy which, but for the purchase from a small power producer, the utility would generate or purchase from another source. A determination of the avoided energy costs to the utility shall include a consideration of the following factors over the term of the power contracts: the expected costs of the additional or existing generating capacity which could be displaced, the expected cost of fuel and other operating expenses of electric energy production which a utility would otherwise incur in generating or purchasing power from another source, and the expected security of the supply of fuel for the utilities' alternative power sources.
- (3) Availability and Reliability of Power. – The rates to be paid by electric public utilities for ~~power~~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 swine or poultry waste for which a need is established consistent with G.S. 62-133.8(e) and (f).

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

(d) Notwithstanding any other provision of this section, an electric public utility shall not be required to enter into a contract with or purchase power from a small power producer if the electric public utility's obligation to purchase from such small power producers has been terminated pursuant to 18 C.F.R. § 292.309."

SECTION 1.(c) A small power production facility which would otherwise be eligible for the standard offer rate schedules and power purchase agreement terms and conditions approved by the Commission in Docket No. E-100, Sub 140, but which fails to commence delivering power to the utility on or before September 10, 2018, shall, notwithstanding such failure, remain eligible for such rate schedules and terms and conditions, unless the nameplate capacity of the generation facility when taken together with the nameplate capacity of other generation facilities connected to the same substation transformer exceeds the nameplate capacity of the substation transformer. The term of a power purchase agreement eligible for such rate schedules and terms and conditions pursuant to this section shall

commence on September 10, 2018, and shall end on the date that is 15 years after the commencement date. An electric public utility shall have the option in its discretion of electing not to interconnect to its distribution system a solar photovoltaic facility with a nameplate capacity of 10 megawatts (MW) or greater that had not executed an interconnection agreement prior to July 1, 2017, and instead requiring such facility to interconnect to the utility's transmission system.

SECTION 1.(d) This section is effective when it becomes law. Subsection (b) of this section applies to any standard contract rates and terms approved by the Commission or nonstandard negotiated agreements entered into between a small power producer and the electric public utility on or after that date. Subsection (c) of this section applies to small power production facilities that established a legally enforceable obligation in accordance with the Commission's then applicable requirements on or before November 15, 2016.

PART II. COMPETITIVE PROCUREMENT OF RENEWABLE ENERGY

SECTION 2.(a) Article 6 of Chapter 62 of the General Statutes is amended by adding a new section to read:

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

(a) Each electric public utility shall file for Commission approval a program for the competitive procurement of energy and capacity from renewable energy facilities with the purpose of adding renewable 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 energy facilities eligible to participate in the competitive procurement shall include those facilities that use renewable 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 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 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 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. In addition, at the termination of the initial competitive procurement period of 45 months, the offering of a new renewable energy resources competitive procurement and the amount to be procured shall be determined by the Commission, based on a showing of need evidenced by the electric public utility's most recent biennial integrated resource plan or annual update approved by the Commission pursuant to G.S. 62-110.1(c).

(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 energy capacity to be supplied by renewable energy facilities through any of the following: (i) renewable energy facilities to be acquired from third parties and subsequently owned and operated by the soliciting public utility or utilities; (ii) renewable 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 energy, capacity, and environmental and renewable attributes from renewable 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 energy facilities in the same manner as the utility's own generating resources.

Procured renewable 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 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 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.
- (2) To ensure the cost-effectiveness of procured new renewable energy resources, each public utility's procurement obligation shall be capped by the public utility's current forecast of its avoided cost calculated over the term of the power purchase agreement. The public utility's current forecast of its avoided cost shall be consistent with the Commission-approved avoided cost methodology.
- (3) Each public utility shall submit to the Commission for approval and make publicly available at 30 days prior to each competitive procurement solicitation a pro forma contract to be utilized for the purpose of informing market participants of terms and conditions of the competitive procurement. Each pro forma contract shall define limits and compensation for resource dispatch and curtailments. The pro forma contract shall be for a term of 20 years; provided, however, the Commission may approve a contract term of a different duration if the Commission determines that it is in the public interest to do so.
- (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 energy facilities offered by the electric public utility or any subsidiary of the electric public utility that is located within the electric public utility's service territory. This limitation shall not apply to any renewable energy facilities acquired by an electric public utility that are selected through the competitive procurement and are located within the electric public utility's service territory.

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

(d) The competitive procurement of renewable energy capacity established pursuant to this section shall be independently administered by a third-party entity to be approved by the

Commission. The third-party entity shall develop and publish the methodology used to evaluate responses received pursuant to a competitive procurement solicitation and to ensure that all responses are treated equitably. All reasonable and prudent administrative and related expenses incurred to implement this subsection shall be recovered from market participants through administrative fees levied upon those that participate in the competitive bidding process, as approved by the Commission.

(e) An electric public utility may participate in any competitive procurement process, but shall only participate within its own assigned service territory. If the public utility uses nonpublicly available information concerning its own distribution or transmission system in preparing a proposal to a competitive procurement, the public utility shall make such information available to third parties that have notified the public utility of their intention to submit a proposal to the same request for proposals.

(f) For purposes of this section, the term "balancing authority" means the entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a balancing authority area, and supports interconnection frequency in real time, and the term "balancing authority area" means the collection of generation, transmission, and loads within the metered boundaries of the balancing authority, and the balancing authority maintains load-resource balance within this area.

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

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

- (1) Oversight of the competitive procurement program.
- (2) To provide for a waiver of regulatory conditions or code of conduct requirements that would unreasonably restrict a public utility or its affiliates from participating in the competitive procurement process, unless the Commission finds that such a waiver would not hold the public utility's customers harmless.
- (3) Establishment of a procedure for expedited review and approval of certificates of public convenience and necessity, or the transfer thereof, for renewable energy facilities owned by the public utility and procured pursuant to this section. The Commission shall issue an order not later than 30 days after a petition for a certificate is filed by the public utility.
- (4) Establishment of a methodology to allow an electric public utility to recover its costs pursuant to subsection (g) of this section.
- (5) Establishment of a procedure for the Commission to modify or delay implementation of the provisions of this section in whole or in part if the Commission determines that it is in the public interest to do so.

(i) The requirements of this section shall not apply to an electric public utility serving fewer than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017."

SECTION 2.(b) G.S. 62-153(b) reads as rewritten:

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

SECTION 2.(c) This section is effective when it becomes law. The program required to be filed with the Utilities Commission pursuant to G.S. 62-110.8(a), as enacted by subsection (a) of this section, shall be filed by the electric public utility no later than 120 days after the effective date of this section, and the Commission shall issue an order to approve, modify, or deny the program no later than 90 days after the submission of the program by the electric public utility.

PART III. RENEWABLE ENERGY PROCUREMENT FOR MAJOR MILITARY INSTALLATIONS, PUBLIC UNIVERSITIES, AND OTHER LARGE CUSTOMERS

SECTION 3.(a) Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

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

(a) Each electric public utility providing retail electric service to more than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017, shall file with the Commission an application requesting approval of a new program applicable to major military installations, as that term is defined in G.S. 143-215.115(1), The University of North Carolina, as established in Article 1 of Chapter 116 of the General Statutes, and other new and existing nonresidential customers with either a contract demand (i) equal to or greater than one megawatt (MW) or (ii) at multiple service locations that, in aggregate, is equal to or greater than five megawatts (MW).

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

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

(d) The program shall be offered by the electric public utilities subject to this section for a period of five years or until December 31, 2022, whichever is later, and shall not exceed a combined 600 megawatts (MW) of total capacity. For the public utilities subject to this section, where a major military installation is located within its Commission-assigned service territory, at least 100 megawatts (MW) of new renewable energy facility capacity offered under the program shall be reserved for participation by major military installations. At least 250 megawatts (MW) of new renewable energy facility capacity offered under the programs shall

also be reserved for participation by The University of North Carolina. Major military installations and The University of North Carolina must fully subscribe to all their allocations prior to December 31, 2020, or a period of no more than three years after approval of the program, whichever is later. If any portion of total capacity set aside to major military installations or The University of North Carolina is not used, it shall be reallocated for use by any eligible program participant. If any portion of the 600 megawatts (MW) of renewable energy capacity provided for in this section is not awarded prior to the expiration of the program, it shall be reallocated to and included in a competitive procurement in accordance with G.S. 62-110.8(a).

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

SECTION 3.(b) This section is effective when it becomes law. The application required to be filed with the Utilities Commission pursuant to G.S. 62-159.2, as enacted by subsection (a) of this section, shall be filed by the electric public utility no later than 180 days after the effective date of this section.

PART IV. COST-RECOVERY FOR CERTAIN SMALL POWER PRODUCER PURCHASES

SECTION 4.(a) G.S. 62-133.2 reads as rewritten:

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

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

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

- (1) The cost of fuel burned.
- (2) The cost of fuel transportation.
- (3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
- (4) The total delivered noncapacity related costs, including all related transmission charges, of all purchases of electric power by the electric public utility, that are subject to economic dispatch or economic curtailment.
- (5) The capacity costs associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, that are subject to economic dispatch by the electric public utility.
- (6) Except for those costs recovered pursuant to G.S. 62-133.8(h), the total delivered costs of all purchases of power from renewable energy facilities and new renewable energy facilities pursuant to G.S. 62-133.8 or to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of G.S. 62-133.8.
- (7) The fuel cost component of other purchased power.

- (8) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of fuel and other fuel-related costs components.
- (9) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.
- (10) The total delivered costs, including capacity and noncapacity costs, associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, that are not subject to economic dispatch or economic curtailment by the electric public utility and not otherwise recovered under subdivision (6) of this subsection.
- (11) All nonadministrative costs related to the renewable energy procurement pursuant to G.S. 62-159.2 not recovered from the program participants.

(a2) For those costs identified in subdivisions (4), (5), ~~and (6)~~, (10), and (11) of subsection (a1) of this section, the annual increase in the aggregate amount of these costs that are recoverable by an electric public utility pursuant to this section shall not exceed ~~two percent (2%)~~ two and one-half percent (2.5%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. The costs described in subdivisions (4), (5), ~~and (6)~~, (10), and (11) of subsection (a1) of this section shall be recoverable from each class of customers as a separate component of the rider as follows:

- (1) For the noncapacity costs described in ~~subdivision (4)~~ subdivisions (4), (10), and (11) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the ~~electric public utility's North Carolina energy usage for the prior year~~ method used in the electric public utility's most recently filed fuel proceeding commenced on or before January 1, 2017, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after January 1, ~~2008~~ 2017.
- (2) For the capacity costs described in subdivisions ~~(5) and (6)~~ (5), (6), (10), and (11) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the ~~electric public utility's North Carolina peak demand for the prior year~~ method used in the electric public utility's most recently filed fuel proceeding commenced on or before January 1, 2017, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after January 1, ~~2008~~ 2017.

...."

SECTION 4.(b) This section is effective when it becomes law.

PART V. AMEND COST CAPS FOR REPS COMPLIANCE

SECTION 5.1.(a) G.S. 62-133.8(h)(4) reads as rewritten:

- "(4) An electric power supplier shall be allowed to recover the incremental costs incurred to comply with the requirements of 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:

2015 and

| Customer Class | 2008-2011 | 2012-2014 | thereafter |
|-------------------------|-----------|------------|----------------------------|
| Residential per account | \$10.00 | \$12.00 | \$34.00 \$27.00 |
| Commercial per account | \$50.00 | \$150.00 | \$150.00 |
| Industrial per account | \$500.00 | \$1,000.00 | \$1,000.00" |

SECTION 5.1.(b) This section becomes effective July 1, 2017, and applies to cost-recovery proceedings initiated on or after that date.

COST-RECOVERY HOLD HARMLESS

SECTION 5.2. All reasonable and prudent incremental costs incurred by an electric power supplier prior to July 1, 2017, to comply with any requirement repealed or amended by this act may be recovered as provided in G.S. 62-133.8(h), as amended by this act. For the purposes of cost-recovery under this act, reasonable and prudent incremental costs shall include all of the following:

- (1) Costs under purchase contracts for renewable energy entered into prior to July 1, 2017, for the purpose of complying with the renewable energy portfolio standards requirements amended by this act.
- (2) The costs of renewable energy facilities built or acquired by a public utility for which a certificate of public convenience and necessity has been issued by the Commission prior to July 1, 2017.

PART VI. DISTRIBUTED RESOURCES ACCESS ACT

SECTION 6.(a) Chapter 62 of the General Statutes is amended by adding a new Article to read:

"Article 6B.

"Distributed Resources Access Act.

"§ 62-126.1. Title.

This Article may be cited as the "Distributed Resources Access Act."

"§ 62-126.2. Declaration of policy.

The General Assembly of North Carolina finds that as a matter of public policy it is in the interest of the State to encourage the leasing of solar energy facilities for retail customers and subscription to shared community solar energy facilities. The General Assembly further finds and declares that in encouraging the leasing of and subscription to solar energy facilities pursuant to this act, cross-subsidization should be avoided by holding harmless electric public utilities' customers that do not participate in such arrangements.

"§ 62-126.3. Definitions.

For purposes of this Article, the following definitions apply:

- (1) Affiliate. – Any entity directly or indirectly controlling or controlled by or under direct or indirect common control with an electric power supplier.
- (2) Commission. – The North Carolina Utilities Commission.
- (3) Community solar energy facility. – A solar energy facility whose output is shared through subscriptions.
- (4) Customer generator lessee. – A lessee of a solar energy facility.
- (5) Electric generator lessor. – The owner of solar energy facility that leases the facility to a customer generator lessee, including any agents who act on behalf of the electric generator lessor. For purposes of this Article, an electric generator lessor shall not be considered a public utility under G.S. 62-3(23).
- (6) Electric power supplier. – A public utility, an electric membership corporation, or a municipality that sells electric power to retail electric customers in the State.

- (7) Electric public utility. – A public utility as defined by G.S. 62-3(23) that sells electric power to retail electric customers in the State.
- (8) Maximum annual peak demand. – The maximum single hour of electric demand actually occurring or estimated to occur at a premises.
- (9) Net metering. – To use electrical metering equipment to measure the difference between the electrical energy supplied to a retail electric customer by an electric power supplier and the electrical energy supplied by the retail electric customer to the electric power supplier over the applicable billing period.
- (10) Offering utility. – Any electric public utility as defined in G.S. 62-3(23) serving at least 150,000 North Carolina retail jurisdictional customers as of January 1, 2017. The term shall not include any other electric public utility, electric membership corporation, or municipal electric supplier authorized to provide retail electric service within the State. An offering utility's participation in this Article as an electric generator lessor shall not otherwise alter its status as a public utility with respect to any other provision of this Chapter. An offering utility's participation in this Article shall be regulated pursuant to the provisions of this Article.
- (11) Person. – The same meaning as provided by G.S. 62-3(21).
- (12) Premises. – The building, structure, farm, or facility to which electricity is being or is to be furnished. Two or more buildings, structures, farms, or facilities that are located on one tract or contiguous tracts of land and that are utilized by one electric customer for commercial, industrial, institutional, or governmental purposes shall constitute one "premises," unless the electric service to the building, structures, farms, or facilities are separately metered and charged.
- (13) Property. – The tract of land on which the premises is located, together with all the adjacent contiguous tracts of land utilized by the same retail electric customer.
- (14) Solar energy facility. – A electric generating facility leased to a customer generator lessee that meets the following requirements:
 - a. Generates electricity from a solar photovoltaic system and related equipment that uses solar energy to generate electricity.
 - b. Is limited to a capacity of (i) not more than the lesser of 1,000 kilowatts (kW) or one hundred percent (100%) of contract demand if a nonresidential customer or (ii) not more than 20 kilowatts (kW) or one hundred percent (100%) of estimated electrical demand if a residential customer.
 - c. Is located on a premises owned, operated, leased, or otherwise controlled by the customer generator lessee that is also the premises served by the solar energy facility.
 - d. Is interconnected and operates in parallel phase and synchronization with an offering utility authorized by the Commission to provide retail electric service to the premises and has been approved for interconnection and parallel operation by that public utility.
 - e. Is intended only to offset no more than one hundred percent (100%) of the customer generator lessee's own retail electrical energy consumption at the premises.
 - f. Meets all applicable safety, performance, interconnection, and reliability standards established by the Commission, the public utility, the National Electrical Code, the National Electrical Safety

Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities.

- (15) Subscription. – A contract between a subscriber and the owner of a community solar energy facility that allows a subscriber to receive a bill credit for the electricity generated by a community solar energy facility in proportion to the electricity generated.

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

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

(b) The rates shall be nondiscriminatory and established only after an investigation of the costs and benefits of customer-sited generation. The Commission shall establish net metering rates under all tariff designs that ensure that the net metering retail customer pays its full fixed cost of service. Such rates may include fixed monthly energy and demand charges.

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

"§ 62-126.5. Scope of leasing program in offering utilities' service areas.

(a) An offering utility and its affiliates may be deemed to be electric generator lessors and may offer leases to solar energy facilities only within the offering utility's own assigned service area or, in the case of an affiliate, the service area assigned to an affiliated offering utility. The costs an offering public utility incurs in marketing, installing, owning, or maintaining leases through its own leasing programs as a lessor shall not be recovered from other nonparticipating utility customers through rates, and the Commission shall not have any jurisdiction over the financial terms of such leases. An offering utility, and the customer generator lessees that lease facilities from it, may participate on an equal basis with other lessors and lessees and in any approved incentive program offered by the utility to its customers.

(b) An electric generator lessor that owns a solar energy facility within the assigned service area of an offering utility and that is located on a premises owned or leased by a customer generator lessee shall be permitted to lease such facility exclusively to a customer generator lessee under a lease, provided that the electric generator lessor complies with the terms, conditions, and restrictions set forth within this section and holds a valid certificate issued by the Commission pursuant to G.S. 62-126.7. An electric generator lessor shall not be considered a "public utility" under G.S. 62-3(23) if the solar energy facility is only made available to a customer generator lessee under a lease that conforms to the requirements of G.S. 62-126.6 for the customer generator lessee's use on its premises where the solar energy facility is located to serve the electric energy requirements of that particular premises, including to enable the customer generator lessee to obtain a credit for the electricity generated under an applicable net metering tariff or to engage in the sale of excess energy from the solar energy facility to an offering utility.

(c) Any lease of a solar energy facility not entered into pursuant to this section is prohibited and any electric generator lessor that enters into a lease outside of an offering utility's program implemented pursuant to this section or otherwise enters into a contract or agreement where payments are based upon the electric output of a solar energy facility shall be considered a "public utility" under G.S. 62-3(23) and be in violation of the franchised service rights of the offering utility or any other electric power supplier authorized to provide retail

electric service in the State. This section does not authorize the sale of electricity from solar energy facilities directly to any customer of an offering utility or other electric power supplier by the owner of a solar energy facility. The electrical output from any solar energy facility leased pursuant to this program shall be the sole and exclusive property of the customer generator lessee.

(d) The total installed capacity of all solar energy facilities on an offering utility's system that are leased pursuant to this section shall not exceed one percent (1%) of the previous five-year average of the North Carolina retail contribution to the offering utility's coincident retail peak demand. The offering utility may refuse to interconnect customers that would result in this limitation being exceeded. Each offering utility shall establish a program for new installations of leased equipment to permit the reservation of capacity by customer generator lessees, whether participating in a public utility or nonutility lessor's leasing program, on its system, including provisions to prevent or discourage abuse of such programs. Such programs must provide that only prospective individual customer generator lessees may apply for, receive, and hold reservations to participate in the offering utility's leasing program. Each reservation shall be for a single customer premises only and may not be sold, exchanged, traded, or assigned except as part of the sale of the underlying premises.

(e) To comply with the terms of this section, each customer generator lessor's solar energy facility shall serve only one premises and shall not serve multiple customer generator lessees or multiple premises. The customer generator lessee must enroll in the applicable rate schedule made available by the interconnecting offering utility, subject to the participation limitations set forth in subsection (a) of this section.

"§ 62-126.6. Electric customer generator leasing requirements; disclosures; records.

(a) A lease agreement offered by an electric generator lessor must meet the following requirements:

- (1) Be signed and dated by the retail electric customer. Any agreement that contains blank spaces when signed by the retail electric customer is voidable at the option of the retail electric customer until the solar energy facility is installed.
- (2) Be in at least 12-point type.
- (3) Include a provision granting the retail electric customer the right to rescind the agreement for a period of not less than three business days after the agreement is signed by the retail electric customer.
- (4) Provide a description of the solar energy facility, including the make and model of the solar energy facility's major components, and a guarantee concerning energy production output that the solar energy facility will provide over the expected life of the agreement.
- (5) Separately set forth the following items, as applicable:
 - a. The total cost to the retail electric customer under the lease agreement for the solar energy facility over the life of the agreement.
 - b. Any interest, installation fees, document preparation fees, service fees, or other costs to be paid by the retail electric customer.
 - c. The total number of payments, including the interest, the payment frequency, the estimated amount of the payment expressed in dollars, and the payment due date over the leased term.
- (6) Identify any State or federal tax incentives that are included in the calculation of lease payments.
- (7) Disclose whether the warranty or maintenance obligations related to the solar energy facility may be sold or transferred to a third party.
- (8) Include a disclosure, the receipt of which shall be separately acknowledged by the retail electric customer, if a transfer of the lease agreement is subject

to any restrictions pursuant to the agreement on the retail electric customer's ability to modify or transfer ownership of a solar energy facility, including whether any modification or transfer is subject to review or approval by a third party. If the modification or transfer of the solar energy facility is subject to review or approval by a third party, the agreement must identify the name, address, and telephone number of, and provide for updating any change in, the entity responsible for approving the modification or transfer.

- (9) Include a disclosure, the receipt of which shall be separately acknowledged by the retail electric customer, if a modification or transfer of ownership of the real property to which the solar energy facility is or will be affixed is subject to any restrictions pursuant to the agreement on the retail electric customer's ability to modify or transfer ownership of the real property to which the solar energy facility is installed or affixed, including whether any modification or transfer is subject to review or approval by a third party. If the modification or transfer of the real property to which the solar energy facility is affixed or installed is subject to review or approval by a third party, the agreement must identify the name, address, and telephone number of, and provide for updating any change in, the entity responsible for approving the modification or transfer.
- (10) Provide a full and accurate summary of the total costs under the agreement for maintaining and operating the solar energy facility over the life of the solar energy facility, including financing, maintenance, and construction costs related to the solar energy facility.
- (11) If the agreement contains an estimate of the retail electric customer's future utility charges based on projected utility rates after the installation of a solar energy facility, provide an estimate of the retail electric customer's estimated utility charges during the same period as impacted by potential utility rate changes ranging from at least a five percent (5%) annual decrease to at least a five percent (5%) annual increase from current utility costs. The comparative estimates must be calculated based on the same utility rates.
- (12) Include a disclosure, the receipt of which shall be separately acknowledged by the retail electric customer that states: "Utility rates and utility rate structures are subject to change. These changes cannot be accurately predicted and projected savings from your solar energy facility are therefore subject to change. Tax incentives are subject to change or termination by executive, legislative, or regulatory action."

(b) Before the maintenance or warranty obligations of a solar energy facility under an existing lease agreement are transferred, the person who is currently obligated to maintain or warrant the solar energy facility must disclose the name, address, and telephone number of the person who will be assuming the maintenance or warranty of the solar energy facility.

(c) If the electric generator lessor's marketing materials contain an estimate of the retail electric customer's future utility charges based on projected utility rates after the installation of a solar energy facility, the marketing materials must contain an estimate of the retail electric customer's estimated utility charges during the same period as impacted by potential utility rate changes ranging from at least a five percent (5%) annual decrease to at least a five percent (5%) annual increase from current utility costs.

"§ 62-126.7. Commission authority over electric generator lessors.

(a) No person shall engage in the leasing of a solar energy facility without having applied for and obtained a certificate authorizing those operations from the Commission. The application for a certificate of authority to engage in business as an electric generator lessor

shall be made in a form prescribed by the Commission and accompanied by the fee required pursuant to G.S. 62-300(a)(16).

(b) In acting upon the application for a certificate of authority to engage in business as an electric generator lessor, the Commission shall take into account the State's interest in encouraging the leasing of solar electric generation facilities and avoidance of cross-subsidization as declared by the policy objectives of this Article as provided in G.S. 62-126.2, as well as the policy of the State, as provided in G.S. 62-2(a). The Commission shall issue a certificate of authority to engage in business as an electric generator lessor if the Commission finds that the applicant is fit, willing, and able to conduct that business in accordance with the provisions of this Article. The certificate shall be effective from the date issued unless otherwise specified therein and shall remain in effect until terminated under the terms thereof, or until suspended or revoked as herein provided.

(c) As a condition for issuance and continuation of a certificate of authority for an electric generator lessor, the applicant shall certify to the Commission all of the following:

- (1) The applicant will register with the Commission each solar energy facility that the applicant leases to a customer generator lessee.
- (2) That each lease of a solar energy facility that the applicant offers or accepts will comply with the provisions of this Article.
- (3) The applicant will consent to the auditing of its books and records by the Public Staff insofar as those records relate to transactions with an offering utility or a customer generator lessee that is located in the State.
- (4) That the applicant will conduct its business in substantial compliance with all federal and State laws, regulations, and rules for the protection of the environment and conservation of natural resources, the provision of electric service, and the protection of consumers.

(d) Upon the request of an electric public utility, an electric membership corporation, the Public Staff, a customer generator lessee, or person having an interest in the electric generator lessor's conduct of its business, the Commission may review the certificate to determine whether the electric generator lessor is conducting business in compliance with this Article. After notice to the electric generator lessor, the Commission may suspend the certificate and enter upon a hearing to determine whether the certificate should be revoked. After the hearing, and for good cause shown, the Commission may, in its discretion, reinstate a suspended certificate, continue a suspension of a certificate, or revoke a certificate.

(e) It shall be a violation of law punishable by a civil penalty of not more than ten thousand dollars (\$10,000) per occurrence for any person to either directly or indirectly do any of the following:

- (1) Solicit business as a lessor of solar energy facilities without a valid certificate issued under this section or otherwise in violation of the terms of this Article.
- (2) Engage in any unfair or deceptive practice in the leasing of solar energy facilities or otherwise violate the requirements of G.S. 62-126.6.
- (3) Operate in violation of the terms of the certificate issued by this Article.

"§ 62-126.8. Community solar energy facilities.

(a) Each offering utility shall file a plan with the Commission to offer a community solar energy facility program for participation by its retail customers. The community solar energy facility program shall be designed so that each community solar energy facility offsets the energy use of not less than five subscribers and no single subscriber has more than a forty percent (40%) interest. The offering utility shall make its community solar energy facility program available on a first-come, first-served basis until the total nameplate generating capacity of those facilities equals 20 megawatts (MW).

(b) A community solar energy facility shall have a nameplate capacity of no more than five megawatts (MW). Each subscription shall be sized to represent at least 200 watts (W) of the community solar energy facility's generating capacity and to supply no more than one hundred percent (100%) of the maximum annual peak demand of electricity of each subscriber at the subscriber's premises.

(c) A community solar energy facility must be located in the service territory of the offering utility filing the plan. Subscribers shall be located in the State of North Carolina and the same county or a county contiguous to where the facility is located. The electric public utility may file a request for Commission approval for an exemption from the location requirement of this subsection and the Commission may approve the request for a facility located up to 75 miles from the county of the subscribers, if the Commission deems the exemption to be in the public interest.

(d) The offering utility shall credit the subscribers to its community solar energy facility for all subscribed shares of energy generated by the facility at the avoided cost rate.

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

- (1) Establish uniform standards and processes for the community solar energy facilities that allow the electric public utility to recover reasonable interconnection costs, administrative costs, fixed costs, and variable costs associated with each community solar energy facility, including purchase expenses if a power purchase agreement is elected as the method of energy procurement by the offering utility.
- (2) Be consistent with the public interest.
- (3) Identify the information that must be provided to potential subscribers to ensure fair disclosure of future costs and benefits of subscriptions.
- (4) Include a program implementation schedule.
- (5) Identify all proposed rules and charges.
- (6) Describe how the program will be promoted.
- (7) Hold harmless customers of the electric public utility who do not subscribe to a community solar energy facility.
- (8) Allow subscribers to have the option to own the renewable energy certificates produced by the community solar energy facility.

"§ 62-126.9. Scope of leasing program by municipalities.

(a) A municipality that sells electric power to retail customers in the State may elect, by action of its governing council or commission, to be deemed to be an electric generator lessor and may offer leases to solar energy facilities located within the municipality's service territory. The costs a municipality incurs in marketing, installing, owning, or maintaining leases through its own leasing programs as a lessor shall not be recovered from other nonparticipating municipality retail customers through rates.

(b) Provided the municipality has elected to offer a leasing program, an electric generator lessor that owns a solar energy facility within a municipality's service territory and that is located on a premises owned or leased by a customer generator lessee shall be permitted to lease such facility exclusively to a customer generator lessee pursuant to a lease under terms and conditions approved by the municipality and holds a valid certificate issued by the Commission pursuant to G.S. 62-126.7. Notwithstanding this subsection, a municipality acting as an electric generator lessor shall not be required to comply with G.S. 62-126.7.

(c) An electric generator lessor, including a municipality acting as an electric generator lessor, shall not be considered a "public utility" under G.S. 62-3(23) if the solar energy facilities are only made available to a customer generator lessee under a lease that conforms to the requirements of G.S. 62-126.6 for the customer generator lessee's use of the customer generator lessee's premises where the solar energy facility is located to serve the electric energy

requirements of that particular premises, including to enable the customer generator lessee to obtain a credit under an applicable net metering tariff or to engage in the sale of excess energy from the solar energy facility to the municipality; provided, however, that the provisions of G.S. 62-126.4 shall not apply to a municipality or other electric generator lessor that offers leases to solar energy facilities located within the municipality's service territory pursuant to this section. Any net metering tariffs adopted by such municipality shall be adopted by its governing council or commission in accordance with the rate-setting procedures set forth in Article 16 of Chapter 160A of the General Statutes.

(d) Any lease of a solar energy facility in a municipal electric service area not entered into pursuant to this section is prohibited. This section does not authorize the sale of electricity from solar energy facilities directly to any customer of a municipality by the owner of a solar energy facility. The electrical output from any eligible renewable electric generation facility leased pursuant to this section shall be the sole and exclusive property of the customer generator lessee.

(e) Each eligible solar energy facility shall serve only one premises and shall not serve multiple customer generator lessees or multiple premises. The customer generator lessee must enroll in the applicable rate schedule made available by the municipality, subject to the participation limitations set forth in subsection (a) of this section.

"§ 62-126.10. Rules.

The Commission shall adopt rules to implement the provisions of this Article."

SECTION 6.(b) G.S. 62-3(23) reads as rewritten:

"§ 62-3. Definitions.

As used in this Chapter, unless the context otherwise requires, the term:

- ...
- (23) a. "Public utility" means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:
1. Producing, generating, transmitting, delivering or furnishing electricity, piped gas, steam or any other like agency for the production of light, heat or power to or for the public for compensation; provided, however, that the term "public utility" shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is ~~for such either for (i) a person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation; compensation or (ii) a person who constructs or operates an eligible solar energy facility on the site of a customer's property and leases such facility to that customer, as provided by and subject to the limitations of Article 6B of this Chapter;~~

...."

SECTION 6.(c) G.S. 62-110.1(g) reads as rewritten:

"(g) The certification requirements of this section shall not apply to (i) a nonutility-owned generating facility fueled by renewable energy resources under two megawatts in ~~capacity or capacity~~; (ii) to persons who construct an electric generating facility primarily for that person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation; ~~provided, however, that such persons shall, nevertheless, be required to report to the Utilities Commission the proposed construction of such a facility before beginning construction thereof.~~ or (iii) a solar energy facility or a community solar energy facility, as provided by and subject to the limitations of Article 6B of this Chapter. However, such persons shall be required to report the proposed

construction of the facility and the completion of the facility to the Commission and the interconnecting public utility. Such reports shall be for informational purposes only and shall not require action by the Commission or the Public Staff."

SECTION 6.(d) This section is effective when it becomes law. The plan required to be filed with the Utilities Commission pursuant to G.S. 62-126.8(a), as enacted by subsection (a) of this section, shall be filed by the electric public utility no later than 180 days after the effective date of this section.

PART VII. EXPEDITED REVIEW OF INTERCONNECTION OF SWINE AND POULTRY WASTE

SECTION 7. G.S. 62-133.8(i)(4) reads as rewritten:

"(4) Establish standards for interconnection of renewable energy facilities and other nonutility-owned generation with a generation capacity of 10 megawatts or less to an electric public utility's distribution system; provided, however, that the Commission shall adopt, if appropriate, federal interconnection standards. The standards adopted pursuant to this subdivision shall include an expedited review process for swine and poultry waste to energy projects of two megawatts (MW) or less and other measures necessary and appropriate to achieve the objectives of subsections (e) and (f) of this section."

PART VIII. SOLAR REBATE PROGRAM

SECTION 8.(a) G.S. 62-155 is amended by adding a new subsection to read:

"(f) Each electric public utility serving more than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017, shall file with the Commission an application requesting approval of a program offering reasonable incentives to residential and nonresidential customers for the installation of small customer owned or leased solar energy facilities participating in a public utility's net metering tariff, where the incentive shall be limited to 10 kilowatts alternating current (kW AC) for residential solar installations and 100 kilowatts alternating current (kW AC) for nonresidential solar installations. Each public utility required to offer the incentive program pursuant to this subsection shall be authorized to recover all reasonable and prudent costs of incentives provided to customers and program administrative costs by amortizing the total program incentives distributed during a calendar year and administrative costs over a 20-year period, including a return component adjusted for income taxes at the utility's overall weighted average cost of capital established in its most recent general rate case, which shall be included in the costs recoverable by the public utility pursuant to G.S. 62-133.8(h). Nothing in this section shall prevent the reasonable and prudent costs of a utility's programs to incentivize customer investment in or leasing of solar energy facilities, including an approved incentive, from being reflected in a utility's rates to be recovered through the annual rider established pursuant to G.S. 62-133.8(h). The program incentive established by each public utility subject to this section shall meet all of the following requirements:

- (1) Shall be limited to 10,000 kilowatts (kW) of installed capacity annually starting in January 1, 2018, and continuing until December 31, 2022, and shall provide incentives to participating customers based upon the installed alternating current nameplate capacity of the generators.
- (2) Nonresidential installations will also be limited to 5,000 kilowatts (kW) in aggregate for each of the years of the program.
- (3) Two thousand five hundred kilowatts (kW) of the capacity for nonresidential installations shall be set aside for use by nonprofit organizations; 50 kilowatts (kW) of the set aside shall be allocated to the NC Greenpower

Solar Schools Pilot or a similar program. Any set-aside rebates that are not used by December 31, 2022, shall be reallocated for use by any customer who otherwise qualifies. For purposes of this section, "nonprofit organization" means an organization or association recognized by the Department of Revenue as tax exempt pursuant to G.S. 105-130.11(a), or any bona fide branch, chapter, or affiliate of that organization.

- (4) If in any year a portion of the incentives goes unsubscribed, the utility may roll excess incentives over into a subsequent year's allocation."

SECTION 8.(b) G.S. 62-133.8(h)(1) is amended by adding a new sub-subdivision to read:

"d. Provide incentives to customers, including program costs, incurred pursuant to G.S. 62-155(f)."

SECTION 8.(c) This section is effective when it becomes law. The application required to be filed with the Utilities Commission pursuant to G.S. 62-155(f), as enacted by subsection (a) of this section, shall be filed by the electric public utility no later than 180 days after the effective date of this section.

PART IX. DEMAND-SIDE MANAGEMENT FOR STATE-OWNED FACILITIES PILOT PROJECT

SECTION 9. Article 17 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-351. Demand-side management policy; pilot project.

(a) Declaration of Policy. – It is the policy of the State for government-owned facilities that have backup or emergency generators that meet the criteria of utility demand-side management programs or rates to enroll in such programs or rates to the extent those programs or rates are available without diminishing the purpose or use of the facility having the backup or emergency generator.

(b) Department of Public Safety Pilot Program. – By no later than January 1, 2018, the Department of Public Safety shall designate a backup or emergency generator to enroll in the demand-side management program or rate available that would allow electricity load to be shifted to its generator in response to utility-administered programs.

(c) Report. – The Department of Public Safety shall report to the Joint Legislative Commission on Energy Policy by January 31 of each year on the status of the designated backup or emergency generator and whether it is enrolled in the utility demand-side response program or rate.

(d) Sunset. – The pilot program and report required by subsections (b) and (c) of this section shall expire on January 1, 2020."

PART X. UPDATE UTILITIES COMMISSION CHARGES AND FEES

SECTION 10.(a) G.S. 62-133.8 is amended by adding a new subsection to read:

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

SECTION 10.(b) G.S. 62-300(a) is amended by adding two new subdivisions to read:

"(16) Two hundred fifty dollars (\$250.00) with each application for a certificate of authority to engage in business as an electric generator lessor filed pursuant

- (17) to G.S. 62-126.7 or each registration statement for a renewable energy facility or new renewable energy facility filed pursuant to G.S. 62-133.8(l).
Fifty dollars (\$50.00) for each report of proposed construction filed by the owner of an electric generating facility that is exempt from the certification requirements of G.S. 62-110.1(a)."

PART XI. UTILITIES COMMISSION/PUBLIC STAFF POSITIONS

SECTION 11. If House Bill 589 of the 2017 Regular Session becomes law, then the North Carolina Utilities Commission and the Public Staff of the Utilities Commission are each authorized to create two positions funded from receipts of the Commission in order to meet requirements imposed by that act.

PART XII. ENERGY STORAGE STUDY

SECTION 12. The North Carolina Policy Collaboratory (Collaboratory) at the University of North Carolina at Chapel Hill shall conduct a study on energy storage technology. The study shall address how energy storage technologies may or may not provide value to North Carolina consumers based on factors that may include capital investment, value to the electric grid, net utility savings, net job creation, impact on consumer rates and service quality, or any other factors related to deploying one or more of these technologies. The study shall also address the feasibility of energy storage in North Carolina, including services energy storage can provide that are not being performed currently, the economic potential or impact of energy storage deployment in North Carolina, and the identification of existing policies and recommended policy changes that may be considered to address a statewide coordinated energy storage policy. The Collaboratory shall provide the results of this study no later than December 1, 2018, to the Energy Policy Council and the Joint Legislative Commission on Energy Policy.

PART XIII. MORATORIUM ON ISSUANCE OF PERMITS FOR WIND ENERGY FACILITIES

SECTION 13.(a) Definitions. – The definitions set forth in Article 21C of Chapter 143 of the General Statutes apply throughout this act.

SECTION 13.(b) Moratorium Established. – There is hereby established a moratorium on the issuance of permits for wind energy facilities and wind energy facility expansions in this State. The purpose of this moratorium is to allow the General Assembly ample time to study the extent and scope of military operations in the State as directed in subsection (d) of this section and to consider the impact of future wind energy facilities and energy infrastructure on military operations, training, and readiness. Neither the Department of Environmental Quality nor the Coastal Resources Commission shall issue a permit for a wind energy facility or wind energy facility expansion for the period beginning January 1, 2017, and ending on December 31, 2018.

SECTION 13.(c) Exception. – The moratorium established by subsection (b) of this section shall not prohibit the consideration of an application or the issuance of a permit for a wind energy facility or wind energy facility expansion for either of the following:

- (1) Those facilities or facility expansions that received a written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration on or before May 17, 2013.
- (2) If the applicant can show that a completed application, prepared in accordance with the requirements set out in G.S. 143-215.119(a), was submitted to the Department or the Commission on or before January 1, 2017.

SECTION 13.(d) Study. – The General Assembly shall study the extent and scope of military operations in the State in order to create a suite of maps and other relevant data and

documentation that shall be employed to communicate the temporal and spatial use of land-, air-, and water-based military operations. Upon completion, the suite of maps and other relevant data and documentation may be utilized to identify areas of the State, both onshore and offshore, where energy infrastructure and development poses a threat to, encroaches upon, or otherwise reduces operations, training capabilities, or readiness. The Legislative Services Officer shall issue a request for proposals for (i) the collection of geospatial and other relevant data for land-, air-, and water-based military operations in the State and (ii) the creation of a suite of maps and other relevant data and documentation that can be used to communicate the temporal and spatial use of land-, air-, and water-based military operations in the State. In the conduct of the study, the selected contractor shall consult with the base commander, or the base commander's designee, of each major military installation in the State, United States Department of Defense officials, retired military personnel with relevant and applicable knowledge of training and operations in this State, the Military Affairs Commission, and any other person, agency, or organization that may be able to define the footprint of military operations in this State and identify, communicate, and relate the data necessary to prepare a comprehensive suite of maps and other relevant data and documentation that illustrate temporal and spatial use of land-, air-, and water-based military operations in the State.

SECTION 13.(e) Time Line. – The study directed by subsection (d) of this section shall adhere to the following time line:

- (1) The request for proposals (RFP) shall be issued on or before September 1, 2017.
- (2) A contract to award the RFP shall be executed on or before November 1, 2017.
- (3) The study, including the preparation of the suite of maps and other relevant data and documentation that illustrate temporal and spatial use of land-, air-, and water-based military operations in the State, findings, and recommendations, if any, shall be completed and submitted to the Legislative Services Officer on or before May 31, 2018, in order to inform the development of policies pertaining to the protection and preservation of major military installations during the 2018 Regular Session.

SECTION 13.(f) Notwithstanding any provision of law in S.L. 2017-57 or in the Committee Report accompanying that act to the contrary, the sum of one hundred fifty thousand dollars (\$150,000) reserved from the appropriation for pending legislation to support the requirements of House Bill 589, 2017 Regular Session, shall instead be used to support the study required by subsection (d) of this section.

PART XIV. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 14.(a) If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 14.(b) Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2017.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 1:58 p.m. this 27th day of July, 2017

OFFICIAL COPY

Aug 08 2017

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Duke Energy Carolinas, LLC's, Duke Energy Progress, LLC's, and Dominion Energy North Carolina's Joint Motion to Submit Session Law 2017-192 as Additional Authority, as filed in Docket No. E-100, Sub 148, was served electronically or via U.S. mail, first-class, postage prepaid, upon all parties of record.

This, the 8th day of August, 2017.

/s/E. Brett Breitschwerdt

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