

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE BILL 694

Short Title: Energy Independence & Job Creation in NC. (Public)

Sponsors: Senators Stein and Apodaca.

Referred to: Commerce.

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THIRD-PARTY SALES FROM RENEWABLE ENERGY FACILITIES WITH TWO MEGAWATTS OR LESS CAPACITY BY AMENDING THE DEFINITION OF PUBLIC UTILITY TO EXCLUDE A THIRD PARTY THAT OWNS OR OPERATES THE EQUIPMENT OF A RENEWABLE ENERGY FACILITY WITH TWO MEGAWATTS OR LESS CAPACITY WHEN THE RENEWABLE ENERGY FACILITY IS LOCATED ON A CUSTOMER'S PROPERTY.

Whereas, it is the policy of the State of North Carolina to promote the development of renewable energy and thereby diversify the resources used to reliably meet the energy needs of consumers in the State; and

Whereas, one way to promote the development of renewable energy is to open and allow competition in markets that heretofore have been closed and served exclusively by an energy supplier assigned to serve such market; and

Whereas, the development of renewable energy in the State will provide greater energy security through the use of indigenous resources available within the State and thereby reduce dependence on unreliable and unstable foreign resources to meet energy needs of consumers in the State; and

Whereas, increasing the amount of on-peak generation generated through third-party sales could result in lower costs for all utility customers; and

Whereas, the development of renewable energy in the State will encourage and result in private investment in new generating facilities and ancillary businesses creating new tax bases and jobs throughout the State; and

Whereas, the generation of energy to meet the State's energy needs in part from renewable resources will improve the quality of life in the State by reducing generation from sources that have the known potential to cause harm to public health; Now, therefore, The General Assembly of North Carolina enacts:

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

"(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



1 facility is for such person's own use and not for the primary
2 purpose of producing electricity, heat, or steam for sale to or
3 for the public for compensation;

4 ...

- 5 1. The term "public utility" shall not include a third party that sells
6 electricity from a customer's on-site renewable energy facility as
7 provided under G.S. 62-5."

8 **SECTION 2.** Article 1 of Chapter 62 of the General Statutes is amended by adding
9 a new section to read:

10 **"§ 62-5. Third-party sales of electricity from small on-site renewable energy facilities.**

11 (a) The sale of electricity to a customer from a renewable energy facility, as defined in
12 G.S. 62-133.8, located on the site of the customer's property using such electricity shall not
13 subject the third-party owner or operator of the on-site generating equipment to any restrictions
14 on such sales under G.S. 62-110.2 or to regulation as a public utility under this Chapter so long
15 as the electric generation capacity of the renewable energy facility at the site is two megawatts
16 or less.

17 (b) For purposes of this section, the customer's site includes all contiguous property
18 owned or leased by the customer, without regard to easements, public thoroughfares,
19 transportation rights-of-way, utility rights-of-way, or other similar interruptions that may divide
20 parcels of property under common ownership.

21 (c) The Commission may adopt rules necessary to implement this section. In
22 developing rules necessary to implement this section, the Commission may consider doing any
23 one or more of the following:

- 24 (1) Establishing as the maximum capacity size of an on-site renewable energy
25 facility the approximate peak load of the customer on whose site the facility
26 is located.
- 27 (2) If the North Carolina Utilities Commission determines it is necessary,
28 requiring any on-site renewable energy facility of 500-kilowatt capacity or
29 greater to conduct a utility feasibility study that is similar to the feasibility
30 study regarding the interconnection standard for facilities of two megawatts
31 capacity or greater.
- 32 (3) For the purpose of studying the impact on utility distribution and retail sales,
33 creating pilot projects for types of on-site renewable energy facilities other
34 than solar facilities."

35 **SECTION 3.** This act becomes effective October 1, 2011.