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GENERAL ASSEMBLY OF NORTH CAROLINA
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S **D**

SENATE BILL DRS15294-RI-17

Short Title:	Promote Clean Energy.	(Public)
Sponsors:	Senators P. Newton, B. Newton, and Craven (Primary Sponsors).	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO REDEFINE "RENEWABLE ENERGY" AS "CLEAN ENERGY," TO PROVIDE THAT THE TERM INCLUDES NUCLEAR RESOURCES AND FUSION ENERGY, AND TO ELIMINATE LANGUAGE IMPEDING CPCN ISSUANCE FOR NUCLEAR FACILITIES.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

(4b) "Fusion energy" means the product of fusion reactions inside a "fusion device," used for the purpose of generating electricity or other commercially usable forms of energy.

(5) "New ~~renewable~~ clean energy facility" means a ~~renewable~~ clean energy facility that either:

a. Was placed into service on or after January 1, 2007.

b. Delivers or has delivered electric power to an electric power supplier pursuant to a contract with NC GreenPower Corporation that was entered into prior to January 1, 2007.

c. Is a hydroelectric power facility with a generation capacity of 10 megawatts or less that delivers electric power to an electric power supplier.

(6) ~~"Renewable~~ "Clean energy certificate" means a tradable instrument that is equal to one megawatt hour of electricity or equivalent energy supplied by a ~~renewable~~ clean energy facility, new ~~renewable~~ clean energy facility, or reduced by implementation of an energy efficiency measure that is used to track and verify compliance with the requirements of this section as determined by the Commission. A ~~"renewable~~ "clean energy certificate" does not include the related emission reductions, including, but not limited to, reductions of sulfur dioxide, oxides of nitrogen, mercury, or carbon dioxide.

(7) ~~"Renewable~~ "Clean energy facility" means a facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:

a. Generates electric power by the use of a ~~renewable~~ clean energy resource.

b. Generates useful, measurable combined heat and power derived from a ~~renewable~~ clean energy resource.

c. Is a solar thermal energy facility.

(8) ~~"Renewable~~ "Clean energy resource" means a solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource; a biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane; waste heat derived from a ~~renewable~~ clean energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility; nuclear energy resources, including an uprate to a nuclear energy facility; fusion energy; or hydrogen derived from a ~~renewable~~ clean energy resource. ~~"Renewable~~ "Clean energy resource" does not include peat, ~~a fossil fuel, or nuclear energy resource.~~or a fossil fuel.

(b) ~~Renewable~~ Clean Energy and Energy Efficiency Standards ~~(REPS)~~ (CEPS) for Electric Public Utilities. –

(1) Each electric public utility in the State shall be subject to a ~~Renewable~~ Clean Energy and Energy Efficiency Portfolio Standard ~~(REPS)~~ CEPS according to the following schedule:

Calendar Year	~~REPS~~ CEPS Requirement
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018	10% of 2017 North Carolina retail sales
2021 and thereafter	12.5% of 2020 North Carolina retail sales

(2) An electric public utility may meet the requirements of this section by any one or more of the following:

a. Generate electric power at a new ~~renewable~~ clean energy facility.

b. Use a ~~renewable~~ clean energy resource to generate electric power at a generating facility other than the generation of electric power from waste heat derived from the combustion of fossil fuel.

c. Reduce energy consumption through the implementation of an energy efficiency measure; provided, however, an electric public utility subject to the provisions of this subsection may meet up to twenty-five percent (25%) of the requirements of this section through savings due to implementation of energy efficiency measures. Beginning in calendar year 2021 and each year thereafter, an electric public utility may meet up to forty percent (40%) of the requirements of this section through savings due to implementation of energy efficiency measures.

d. Purchase electric power from a new ~~renewable~~ clean energy facility. Electric power purchased from a new ~~renewable~~ clean energy facility located outside the geographic boundaries of the State shall meet the requirements of this section if the electric power is delivered to a public utility that provides electric power to retail electric customers in the State; provided, however, the electric public utility shall not sell the ~~renewable~~ clean energy certificates created pursuant to this paragraph to another electric public utility.

e. Purchase ~~renewable~~ clean energy certificates derived from in-State or out-of-state new ~~renewable~~ clean energy facilities. Certificates derived from out-of-state new ~~renewable~~ clean energy facilities shall not be used to meet more than twenty-five percent (25%) of the requirements of this section, provided that this limitation shall not apply to an electric public utility with less than 150,000 North Carolina retail jurisdictional customers as of December 31, 2006.

f. Use electric power that is supplied by a new ~~renewable~~ clean energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of this section for any calendar year as a credit towards the requirements of this section in the following calendar year or sell the associated ~~renewable~~ clean energy certificates.

g. Electricity demand reduction.

(c) ~~Renewable~~ Clean Energy and Energy Efficiency Standards ~~(REPS)~~ (CEPS) for Electric Membership Corporations and Municipalities. –

(1) Each electric membership corporation or municipality that sells electric power to retail electric power customers in the State shall be subject to a ~~Renewable~~ Clean Energy and Energy Efficiency Portfolio Standard ~~(REPS)~~ (CEPS) according to the following schedule:

Calendar Year	~~REPS~~ CEPS Requirement
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018 and thereafter	10% of 2017 North Carolina retail sales

(2) An electric membership corporation or municipality may meet the requirements of this section by any one or more of the following:

a. Generate electric power at a new ~~renewable~~ clean energy facility.

b. Reduce energy consumption through the implementation of demand-side management or energy efficiency measures.

c. Purchase electric power from a ~~renewable~~ clean energy facility or a hydroelectric power facility, provided that no more than thirty percent (30%) of the requirements of this section may be met with hydroelectric power, including allocations made by the Southeastern Power Administration.

d. Purchase ~~renewable~~ clean energy certificates derived from in-State or out-of-state ~~renewable~~ clean energy facilities. An electric power supplier subject to the requirements of this subsection may use certificates derived from out-of-state ~~renewable~~ clean energy facilities to meet no more than twenty-five percent (25%) of the requirements of this section.

e. Acquire all or part of its electric power through a wholesale purchase power agreement with a wholesale supplier of electric power whose portfolio of supply and demand options meets the requirements of this section.

f. Use electric power that is supplied by a new ~~renewable~~ clean energy facility or saved due to the implementation of demand-side management or energy efficiency measures that exceeds the requirements of this section for any calendar year as a credit towards the requirements of this section in the following calendar year or sell the associated ~~renewable~~ clean energy certificates.

g. Electricity demand reduction.

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

Calendar Year	Requirement for Solar Energy Resources
2010	0.02%
2012	0.07%
2015	0.14%
2018	0.20%

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

Calendar Year	Requirement for Swine Waste Resources
2012	0.07%
2015	0.14%
2018	0.20%

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

Calendar Year	Requirement for Poultry Waste Resources
2012	170,000 megawatt hours
2013	700,000 megawatt hours
2014	900,000 megawatt hours

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

…

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

(1) Provide for the monitoring of compliance with and enforcement of the requirements of this section.

(2) Include a procedure to modify or delay the provisions of subsections (b), (c), (d), (e), and (f) of this section in whole or in part if the Commission determines that it is in the public interest to do so. The procedure adopted pursuant to this subdivision shall include a requirement that the electric power supplier demonstrate that it made a reasonable effort to meet the requirements set out in this section.

(3) Ensure that energy credited toward compliance with the provisions of this section not be credited toward any other purpose, including another ~~renewable~~ clean energy portfolio standard or voluntary ~~renewable~~ clean energy purchase program in this State or any other state.

(4) Establish standards for interconnection of ~~renewable~~ clean 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.

(5) Ensure that the owner and operator of each ~~renewable~~ clean energy facility that delivers electric power to an electric power supplier is in substantial compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources.

(6) Consider whether it is in the public interest to adopt rules for electric public utilities for net metering of ~~renewable~~ clean energy facilities with a generation capacity of one megawatt or less.

(7) Develop procedures to track and account for ~~renewable~~ clean energy certificates, including ownership of ~~renewable~~ clean energy certificates that are derived from a customer owned ~~renewable~~ clean energy facility as a result of any action by a customer of an electric power supplier that is independent of a program sponsored by the electric power supplier.

(j) Repealed by Session Laws 2021-23, s. 16, effective May 17, 2021.

(k) Tracking of ~~Renewable~~ Clean Energy Certificates. – No later than July 1, 2010, the Commission shall develop, implement, and maintain an Internet Web site for the online tracking of ~~renewable~~ clean energy certificates in order to verify the compliance of electric power suppliers with the ~~REPS~~ CEPS requirements of this section and to facilitate the establishment of a market for the purchase and sale of ~~renewable~~ clean energy certificates.

(*l*) The owner, including an electric power supplier, of each ~~renewable~~ clean energy facility or new ~~renewable~~ clean 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~~ clean 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 1.(b) G.S. 62-2(a) reads as rewritten:

"**§ 62-2. Declaration of policy.**

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

…

(10) To promote the development of ~~renewable~~ clean energy and energy efficiency through the implementation of a ~~Renewable~~ Clean Energy and Energy Efficiency Portfolio Standard ~~(REPS)~~ (CEPS) that will do all of the following:

a. Diversify the resources used to reliably meet the energy needs of consumers in the State.

b. Provide greater energy security through the use of indigenous energy resources available within the State.

c. Encourage private investment in ~~renewable~~ clean energy and energy 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

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~~ clean 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~~ clean energy resources throughout the State; (ii) the efficiency and reliability impacts of siting of additional ~~renewable~~ clean 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~~ clean 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~~ clean 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~~ clean 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.

…

(g) An electric public utility shall be authorized to recover the costs of all purchases of energy, capacity, and environmental and ~~renewable~~ clean attributes from third-party ~~renewable~~ clean 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~~ clean 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~~ clean 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) Repealed by Session Laws 2021-165, s. 2(b), effective October 13, 2021.

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

"**§ 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~~ clean energy facility for that person's own primary use or (ii) are customer generator lessees.

…

(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~~ clean 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."

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

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

…

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

…

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

SECTION 1.(f) 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:

…

(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~~ clean energy facilities and new ~~renewable~~ clean 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.

…

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

…."

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

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

…

(d) Commission Action on Application. –

…

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

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

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

…."

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

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

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

…

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

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

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

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

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

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

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

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

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

…

(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 or (ii) power purchase agreements entered into pursuant to the competitive ~~renewable~~ clean energy procurement process established pursuant to G.S. 62-110.8."

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

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

…

(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~~ clean 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.

…."

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

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

…

(b) Each public utility's program application required by this section shall provide standard contract terms and conditions for participating customers and for ~~renewable~~ clean 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~~ clean energy facility from which the electric public utility shall procure energy and capacity. The standard terms and conditions available to ~~renewable~~ clean 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~~ clean 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. The requirements of this subsection shall apply except as otherwise provided by law.

(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~~ clean energy facility capacity offered under the program shall be reserved for participation by major military installations. At least 250 megawatts (MW) of new ~~renewable~~ clean 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~~ clean 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). The requirements of this subsection shall apply except as otherwise provided by law.

(e) In addition to the participating customer's normal retail bill, the total cost of any ~~renewable~~ clean 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~~ clean 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~~ clean electricity procured on behalf of the program customer."

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

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

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

…

(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 to G.S. 62-126.7 or each registration statement for a ~~renewable~~ clean energy facility or new ~~renewable~~ clean energy facility filed pursuant to G.S. 62-133.8(*l*).

…."

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

"**§ 143-213. Definitions.**

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

…

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

…

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

…."

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

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

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

…

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

…."

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

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

…

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

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

…."

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

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

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

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

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

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

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

…

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

…

(g) The certification requirements of this section shall not apply to (i) a nonutility-owned generating facility fueled by ~~renewable~~ clean energy resources under two megawatts in 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; 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.

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

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