



HOUSE BILL 329: Renewable Energy Amends.

2019-2020 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: June 25, 2019
Introduced by: Reps. Szoka, Arp, Hanig, Warren	Prepared by: Jennifer McGinnis
Analysis of: Second Edition	Staff Attorney

OVERVIEW: House Bill 329 would:

- *Amend the definition of "public utility" to provide that a person who uses an electric vehicle charging station to resell electricity to the public is not a public utility if certain conditions apply.*
- *Direct the Environmental Management Commission (EMC) to adopt rules to establish a regulatory program to govern: the management of end-of-life photovoltaic (PV) modules and energy storage system batteries, including requirements for stewardship programs for the recycling of such equipment; and decommissioning of utility-scale solar projects and wind energy facilities. The Department of Environmental Quality (DEQ) would also be directed to establish a stakeholder process to support development of the rules.*
- *Extend certain treatment given to small power producers that produce energy from swine and poultry waste to certain small hydroelectric power facilities, with respect to an exemption concerning capacity payments to small power producers under standard contracts.*

BILL ANALYSIS/CURRENT LAW/BACKGROUND:

SECTION 1 -- EXEMPT EV STATIONS/PUBLIC UTILITIES REGS

Section 1 of the bill would provide that the term "public utility" does not include a person who uses an electric vehicle charging station to resell electricity to the public for compensation, provided that:

- The reseller procured the energy from an electric power supplier (a public utility, an electric membership corporation, or a municipality that sells electric power to retail electric power customers in the State) authorized to sell electricity in the territory where the service is provided.
- The resale of electricity is exclusively for charging plug-in electric vehicles.
- The charging station is immobile.
- Utility service to the charging station is provided subject to the electric power supplier's terms and conditions.

The bill would not limit an electric power supplier's ability to use electric vehicle charging stations to furnish electricity for charging electric vehicles. Increases in customer demand or energy consumption associated with transportation electrification would not constitute found revenues for an electric public utility.

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Current law/Background for Section 1: The General statutes define a “public utility” as any entity that owns and operates “equipment and facilities” that provides electricity “to or for the public for compensation.” State law precludes retail electric competition and establishes regional monopolies on the sale of electricity, but there are some exceptions. The retail resale of electricity is generally prohibited, except for a narrow exception for campgrounds operated primarily to serve transient occupants, and marinas.

SECTION 2 -- RECYCLING AND RESTORATION/RENEWABLE ENERGY

Section 2 of the bill would require:

The EMC to adopt rules, no later than January 1, 2022, to establish a regulatory program to govern: (i) the management of end-of-life photovoltaic (PV) modules and energy storage system batteries; and (ii) decommissioning of utility-scale solar projects and wind energy facilities. In the development of these rules, DEQ must consider all of the following matters:

- Whether or not any PV modules, energy storage system batteries, or the constituent materials thereof, or other equipment used in utility-scale solar projects or wind energy facilities, exhibit any of the characteristics of hazardous waste identified in 40 CFR Part 261, or under rules adopted pursuant to G.S. 130A-294(c), or whether or not any such equipment is properly characterized as solid waste under State and federal law.
- Preferred methods to responsibly manage end-of-life PV modules, energy storage system batteries, or the constituent materials thereof, or other equipment used in utility-scale solar projects or wind energy facilities, including the extent to which such equipment may be:
 - Reused, if not damaged or in need of repair, for a similar purpose.
 - Refurbished, if not substantially damaged, and reused for a similar purpose.
 - Recycled with recovery of materials for similar or other purposes.
 - Safely disposed of in construction and demolition or municipal solid waste landfills for material that does not exhibit any of the characteristics of hazardous waste under State or federal law.
 - Safely disposed of in accordance with State and federal requirements governing hazardous waste for materials that exhibit any of the characteristics of hazardous waste under State or federal law.
- Economic and environmental costs and benefits associated with each method identified in the preceding bullet to manage end-of-life PV modules, energy storage system batteries, or the constituent materials thereof, and other equipment used in utility-scale solar projects or wind energy facilities.
- The data-based expected economically productive life cycle of various types of PV modules, wind turbines, and energy storage system batteries currently in use in the State.
- The volume of PV modules, wind turbines, and energy storage system batteries currently in use in the State, and projections, based upon the data on life cycle for such products identified by the study, on impacts that may be expected to the State's landfill capacity if landfill disposal is permitted for such equipment at end-of-life.
- A survey of federal and other states' and countries' regulatory requirements relating to: (i) management of end-of life PV modules, energy storage system batteries, and other equipment used in utility-scale solar projects and wind energy projects, including identification of states' laws governing reuse, refurbishment, disposal, or recycling of such equipment; (ii) decommissioning of utility-scale solar projects and wind energy facilities; and (iii) financial

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assurance to be established by owners or operators of utility-scale solar projects and wind energy facilities to ensure responsible decommissioning.

- Whether or not adequate financial assurance requirements are necessary to ensure proper decommissioning of utility-scale solar projects upon cessation of operations.
- Infrastructure that may be needed to develop a practical, effective, and cost-efficient means to collect and transport end-of-life PV modules, energy storage system batteries, and other equipment used in utility-scale solar projects and wind energy facilities, for reuse, refurbishment, recycling, or disposal.
- Whether or not manufacturer stewardship programs for the recycling of end-of-life PV modules and energy storage system batteries not otherwise addressed by utility-scale solar project decommissioning rules adopted by the EMC should be established for applications other than utility-scale solar project installations, and if so, fees that should be established for manufacturers that sell such photovoltaic modules, or energy storage system batteries, in or into the State, in an amount adequate to support the implementation of such requirements.
- DEQ, within 60 days following the effective date of the bill, to establish a stakeholder process for development of the regulatory program outlined above.
- The EMC and DEQ to submit joint interim reports on activities conducted pursuant to the bill on a quarterly basis beginning December 1, 2019, and submit a joint final report with findings, including stakeholder input, to the Environmental Review Commission and the General Assembly no later than January 1, 2021. The interim report due April 1, 2020, must include a recommendation to the General Assembly regarding the resources needed to implement the requirements of the bill.

SECTION 3 -- SMALL HYDRO AMENDS

Section 3 of the bill would extend the exemption from the limitation established by H589 applicable to small power producers under standard contracts that capacity payments be made only when capacity is needed by a utility based on need for that resource as established by the utility's statutorily required integrated resource plan to hydropower small power producers with power purchase agreements with an electric public utility in effect as of July 27, 2017, and renewals of such power purchase agreements, if the hydroelectric small power producer's facility total capacity is equal to or less than five megawatts (along with swine and poultry waste for which a need is established by REPS).

Current law/Background for Section 3: S.L. 2017-192 (H589) amended various laws related to energy policy, including a provision that required rates for small power producers over 1 MW to be negotiated between a small power producer and a utility for a fixed five-year term. Swine and poultry waste, small hydropower, and biogas facilities were allowed to negotiate, however, for a term beyond five years.

H589 also required that capacity payments be made only when capacity is needed by a utility based on need for that resource as established by the utility's statutorily required integrated resource plan. The limitation on capacity payments does not apply, however, to swine and poultry waste for which a need is established by the State's Renewable Energy and Energy Efficiency Portfolio Standard (REPS) .

EFFECTIVE DATE: This act would be effective when it becomes law.

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Chris Saunders, Staff Attorney, substantially contributed to this summary.