

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1077\*

Short Title: Freedom to Choose Clean Energy.

(Public)

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Sponsors: Senators Albertson; Ballance, Carpenter, Dannelly, East, Forrester, Hartsell, Jordan, Kinnaird, Martin of Guilford, Metcalf, Shaw of Cumberland, and Webster.

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Referred to: Commerce.

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April 15, 1999

A BILL TO BE ENTITLED

1 AN ACT TO ENHANCE AIR AND WATER QUALITY AND PROTECT THE  
2 ENVIRONMENT BY ALLOWING ELECTRIC CUSTOMERS TO PROVIDE  
3 FINANCIAL SUPPORT TO PRODUCERS OF RENEWABLE RESOURCE  
4 ENERGY.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Article 7 of Chapter 62 of the General Statutes is amended by  
8 adding a new section to read:

9 **"§ 62-155.1. Renewable resource energy; funding participation by electric  
10 customers.**

11 (a) As used in this section:

12 (1) "Contributor" means a customer of an electric utility who voluntarily  
13 chooses to support renewable energy generation and use by regularly  
14 contributing an additional amount of one dollar (\$1.00) or more, along  
15 with payment of the customer's residential electric bill payment.

16 (2) "Eligible renewable generator" means an electric power production  
17 facility, not owned by a utility, having an installed hydroelectric  
18 capacity of five megawatts or less located at an existing dam, and  
19 relying on one or more of the following alternate eligible renewable

1 resources for increased power production during on-peak hours, not to  
2 exceed the maximum installed hydroelectric capacity: (i) fuel cells; (ii)  
3 solar arrays and installations; (iii) biomass generators; or (iv) waste,  
4 landfill gas, or gas from livestock waste.

5 (3) "Interconnection" means the connection between an electric utility and  
6 an eligible renewable generator that permits the flow of electrical  
7 energy to and from the eligible renewable generator facility, including  
8 the provisions for switching, metering, transmission, distribution,  
9 equipment, and safe operation.

10 (4) "Subscriber" means a residential customer of an electric utility who  
11 voluntarily chooses to support renewable energy generation and use by  
12 having a portion of the customer's residential electric bill payment used  
13 to pay for energy provided by eligible renewable generators.

14 (b) The General Assembly finds that it is ecologically responsible and in the public  
15 interest to enhance the feasibility of the production of renewable energy by eligible  
16 renewable generators, which reduces the need for facilities operating on fossil fuels.

17 (c) The Commission shall require each electric utility to allow its customers to  
18 support the use of energy produced by eligible renewable generators through an election  
19 made on the customer's monthly bill or by otherwise notifying the utility. Any electric  
20 utility customer may elect to become a contributor. Residential customers may elect to  
21 become subscribers or contributors, or both, and the utility shall notify all of its  
22 customers at least twice yearly of the option to do so. The Commission or the Public  
23 Staff shall determine the wording of the notification. A customer may terminate an  
24 election to become a subscriber or contributor by notifying the utility. No fee may be  
25 charged for an election to subscribe or contribute or to terminate those elections.

26 (d) The Commission shall require each electric utility to effect interconnection  
27 with eligible renewable generators in order to effect the provisions of this section. Each  
28 eligible renewable generator shall reimburse the utility for the costs of interconnection  
29 and metering equipment and the installation of that equipment to the point of connection  
30 to the utility's system at the eligible renewable generator's site, to the extent that such  
31 reimbursement has not previously been made. Eligible renewable generators shall pay  
32 the utility for any energy produced by the utility and used by the eligible renewable  
33 generator at a rate approved by the Commission.

34 (e) Except as otherwise provided in subsection (f) of this section for energy  
35 supplied during on-peak hours, the rate remitted by each electric utility to eligible  
36 renewable generators shall be determined by deducting from the Commission- approved  
37 residential retail rate charged on a per kilowatt-hour basis to the majority of residential  
38 customers of that electric utility:

39 (1) Expenses approved by the Commission and retained by the utility for  
40 billing, distribution, handling, and other services and profit, totalling up  
41 to twenty percent (20%) of that retail rate; and

42 (2) An amount equal to two percent (2%) of that retail rate, one percent  
43 (1%) of which the utility shall remit to the Wildlife Resources Fund

1           established in G.S. 143-250 and one percent (1%) of which the utility  
2           shall remit to the Clean Water Management Trust Fund established in  
3           Article 13A of Chapter 113 of the General Statutes.

4           This rate shall be remitted by the electric utility to eligible renewable generators first  
5           from amounts collected from contributors and, to the extent that those funds are not  
6           sufficient, from amounts collected from the utility's subscribers.

7           (f) For energy supplied to an electric utility during on-peak hours, a rate equal to the  
8           rate provided for in subsection (e) of this section multiplied by one and forty-three  
9           hundredths (1.43) shall be remitted by the electric utility to eligible renewable generators.

10          This higher rate is intended to encourage on-peak production in order to reduce air  
11          pollutants, to offset demand for higher-priced energy during on-peak hours, and to  
12          compensate eligible renewable generators for higher costs during on-peak hours.

13          (g) If subscription demand exceeds energy available from eligible renewable  
14          generators, each utility shall provide its subscribers with the deficit energy at the  
15          applicable residential rate and apportion the amount of subscribers' electric bills payable  
16          to eligible renewable generators on the basis of kilowatt-hours supplied by eligible  
17          renewable generators during the billing period.

18          (h) If amounts collected from both subscribers and contributors are insufficient to  
19          pay for all energy supplied by eligible renewable generators, the available funds shall be  
20          apportioned to them on the basis of kilowatt-hours supplied by each generator.

21          (i) Contracts providing for interconnection and services under this section shall be  
22          for a period of 15 years unless by mutual agreement the utility and an eligible renewable  
23          generator negotiate a shorter term. The Commission shall prescribe standard terms and  
24          conditions for those contracts and shall permit cancellation of a contract if an eligible  
25          renewable generator fails to deliver power within 30 months after a contract is entered  
26          into or fails to deliver power for 360 consecutive days after the date that power is first  
27          delivered under the contract.

28          (j) On or before April 15 of each year, each electric utility shall submit to the  
29          Commission a report covering the preceding calendar year certifying the number of  
30          subscribers and contributors electing to support eligible renewable energy generators, the  
31          kilowatt-hour and dollar amount of the subscribers served, the dollar amount collected  
32          from contributors, and the surplus funds, if any, remaining from amounts collected from  
33          contributors.

34          (k) The Commission shall require each electric utility to create an escrow account for  
35          any surplus amounts collected from contributors. The fund shall be used for years in  
36          which insufficient funds are collected to remit to eligible renewable generators at the rate  
37          provided for in subsection (e) of this section. Any surplus in excess of two years'  
38          anticipated funding shall be disbursed annually by the utility to the Clean Water  
39          Management Trust Fund established in Article 13A of Chapter 113 of the General  
40          Statutes."

41                 Section 2. This act is effective when it becomes law and applies to the  
42                 provision of electric power supplied by eligible renewable generators, as defined in G.S.  
43                 62-155.1(a)(2), on or after that date.