

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 958

Short Title: Electric Utilities/Allow and Study RTE. (Public)

Sponsors: Representatives Strickland, Goodwin, and Saine (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 26, 2019

A BILL TO BE ENTITLED

AN ACT TO (I) ALLOW THE UTILITIES COMMISSION TO REQUIRE ELECTRIC PUBLIC UTILITIES TO PARTICIPATE IN OR ESTABLISH A REGIONAL TRANSMISSION ENTITY AND (II) STUDY THE PUBLIC BENEFITS ASSOCIATED WITH PARTICIPATION IN OR ESTABLISHMENT OF SUCH AN ENTITY.

Whereas, electric service in North Carolina is currently provided by vertically integrated monopoly providers of electric distribution and transmission services; and

Whereas, new and innovative sources of energy production are emerging which are transforming the electric industry for the benefit of consumers in the State by promoting retail service reliability and affordability; and

Whereas, the State has adopted measures to diversify the resources used to reliably meet the energy needs of consumers in the State; and

Whereas, the development of new, low-cost generation resources in the State has encouraged private investment in new generating facilities and ancillary businesses, creating new tax bases and economic opportunities throughout the State; and

Whereas, access to new, low-cost generation resources throughout the country is now accessible to consumers in the State; and

Whereas, the adoption of measures to reform the structure of the existing electric transmission service may further promote the development of and access to low-cost, reliable resources for the benefit of North Carolina consumers; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-30.1 Authority to require regional transmission entities for certain electric public utilities.

(a) In exercising its supervisory authority over electric public utilities, the Commission is authorized to require any electric public utility providing retail electric service to at least 150,000 North Carolina retail jurisdictional customers as of January 1, 2019, to submit for approval to the Federal Energy Regulatory Commission an application for establishing or joining a regional transmission entity (RTE) and to transfer the management and control of its transmission assets to such RTE. The Commission shall exercise such authority upon finding that participation in an RTE is in the public interest, taking into consideration expected consumer benefits of RTE participation, and is otherwise consistent with the provision of reliable and safe electric service to retail customers in North Carolina.



1 **(b)** In any proceeding under subsection (a) of this section, the Commission shall establish
2 requirements that:

3 **(1)** Promote: (i) the reliable planning, operating, maintaining, and upgrading of
4 the transmission systems and any necessary additions thereto, (ii) the safe,
5 reliable, and efficient operation of transmission systems, and (iii) policies for
6 the pricing and access for service over such systems that are not unduly
7 discriminatory and consistent with the orderly development of competition in
8 the State;

9 **(2)** Are consistent with lawful requirements of the Federal Energy Regulatory
10 Commission regarding the establishment of an RTE; and

11 **(3)** Generally promote the public interest and are consistent with: (i) ensuring that
12 consumers' needs for economic and reliable transmission are met and (ii)
13 meeting the transmission needs of electric generation suppliers both within
14 and without this State, including those that do not own, operate, control, or
15 have an entitlement to transmission capacity.

16 **(c)** The establishment of an RTE under this section shall not be deemed to modify the
17 Commission's authority over any of the following:

18 **(1)** Sales of electric energy to retail customers within the State.

19 **(2)** Transmission line or facility construction, enlargement, or acquisition within
20 the State, as set forth in Article 5A of this Chapter.

21 **(3)** Distribution line or facility construction, or investments in the distribution
22 system.

23 **(d)** This section shall not apply to any electric membership corporation, municipal
24 electric supplier, joint municipal power agency, or any other entity that does not own
25 transmission assets but is authorized to provide retail electric service within the State.

26 **(e)** For purposes of this section, "regional transmission entity" or "RTE" means an entity,
27 such as a Regional Transmission Organization, established for the purpose of promoting the
28 efficiency and reliability in the operation and planning of the electric transmission grid and
29 ensuring nondiscrimination in the provision of electric transmission services meeting the
30 minimum criteria established by the Federal Energy Regulatory Commission under 18 C.F.R. §
31 35.34."

32 **SECTION 2.(a)** The North Carolina Utilities Commission (Commission) shall
33 solicit an independent, duly qualified, third-party to conduct a study on participation by North
34 Carolina electric utilities in regional transmission entities (RTEs), including Regional
35 Transmission Organizations, that satisfy the minimum criteria established by the Federal Energy
36 Regulatory Commission under 18 C.F.R. § 35.34. The study shall address how North Carolina
37 retail electric consumers would benefit from investor-owned utilities in North Carolina joining
38 or establishing an RTE based on factors including generation production cost savings,
39 transmission cost savings, reliability and resiliency improvements, generation resource diversity,
40 the integration of demand response and energy efficiency, deployment of renewable resources,
41 impact on consumer rates and service quality, and any other factors related to joining or creating
42 an RTE.

43 **SECTION 2.(b)** The Commission shall, within 90 days following the effective date
44 of this Act, establish a stakeholder process to support and provide comment on the third-party
45 study specified in Section 2.(a). The stakeholder process shall, to the extent feasible, include:

46 **(1)** The State Energy Director of the Department of Environment Quality;

47 **(2)** A representative of the North Carolina Energy Policy Council;

48 **(3)** The North Carolina President of Duke Energy or the President's designee;

49 **(4)** A designee from Dominion North Carolina Power;

50 **(5)** Representatives of commercial consumers of electricity in investor-owned
51 utility service territory in North Carolina;

- 1 (6) Representatives of residential consumers of electricity in investor-owned
- 2 utility service territory in North Carolina;
- 3 (7) Representatives of industrial consumers of electricity in investor-owned
- 4 utility service territory in North Carolina;
- 5 (8) Representatives of the environmental community;
- 6 (9) Representatives of a national electric power marketer;
- 7 (10) Representatives of existing, national RTEs;
- 8 (11) Representatives of the NC Clean Energy Technology Center;
- 9 (12) Representatives of institutions of higher learning in IOU service territory in
- 10 North Carolina;
- 11 (13) Representatives of the North Carolina Electric Cooperatives and Electricities
- 12 of North Carolina;
- 13 (14) Representatives of North Carolina's renewable energy industry; and
- 14 (15) Representatives of the North Carolina merchant generation industry.

15 **SECTION 2.(c)** The Commission shall establish the final scope and parameters of
16 the study, including the issues specified in subsection (a) of this section, taking into consideration
17 comment from participating stakeholders on these matters. At a minimum, the study shall address
18 the following issues:

- 19 (1) The legal and procedural requirements associated with an electric utility's
- 20 participation in an existing RTE as compared with the requirements associated
- 21 with the establishment of a newly formed RTE, including identification of
- 22 existing laws, regulations, and policies that may need to be amended in order
- 23 for an investor-owned utility to join an existing RTE or establish an RTE.
- 24 (2) The potential costs and benefits to North Carolina retail electric consumers
- 25 and ratepayers of an electric utility's participation in an existing RTE as
- 26 compared with the establishment of a newly formed RTE based on the
- 27 following factors: generation production cost savings, fuel savings,
- 28 transmission cost savings, reliability, resiliency, generation resource diversity,
- 29 generator availability, the integration of demand response and energy
- 30 efficiency, deployment of renewable resources, deferral of capital
- 31 investments, transmission infrastructure necessary to participate in or
- 32 establish an RTE, and impact on consumer rates and service quality in the
- 33 short- and long-term.
- 34 (3) Recommendations concerning additional unbundling of electric power
- 35 generation, transmission, and distribution services associated with the
- 36 establishment of an RTE.
- 37 (4) The experience of other states with electric utility restructuring in connection
- 38 with establishment of an RTE.

39 **SECTION 2.(d)** The Commission shall submit a final report of the study's findings
40 and recommendations, including stakeholder input, to the Joint Legislative Commission on
41 Energy Policy and the North Carolina Energy Policy Council no later than March 1, 2020.

42 **SECTION 2.(e)** There is appropriated from the General Fund to the Utilities
43 Commission the sum of seven hundred fifty thousand dollars (\$750,000) to implement the
44 requirements of this section.

45 **SECTION 3.** The North Carolina Utilities Commission shall open a docket and
46 begin proceedings to determine if participation in or establishment of an RTE is in the public
47 interest within 30 days of submission of the study. If the Commission determines that
48 participation in or the establishment of an RTE satisfies the standard established in G.S. 62-30.1,
49 the Commission shall issue an order requiring the affected IOUs to submit a proposal for
50 participation in or establishment of an RTE. The Commission shall issue an order with its
51 determination on this matter no later than September 31, 2020.

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SECTION 4. This act is effective when it becomes law.