

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2023**

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**HOUSE BILL 535**  
**Committee Substitute Favorable 4/18/23**

Short Title: Solar Capacity Limit Increase.

(Public)

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Sponsors:

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Referred to:

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March 30, 2023

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CAPS ON ROOFTOP SOLAR LEASING AND ON NET METERING.

The General Assembly of North Carolina enacts:

**PART I. INCREASE ROOFTOP SOLAR LEASING CAP**

**SECTION 1.1.** G.S. 62-126.5 reads as rewritten:

**"§ 62-126.5. Scope of leasing program in offering utilities' service areas.**

(a) An offering utility and its affiliates may be deemed to be electric generator lessors and may offer leases to solar energy facilities only within the offering utility's own assigned service area or, in the case of an affiliate, the service area assigned to an affiliated offering utility. The costs an offering public utility incurs in marketing, installing, owning, or maintaining leases through its own leasing programs as a lessor shall not be recovered from other nonparticipating utility customers through rates, and the Commission shall not have any jurisdiction over the financial terms of such leases. An offering utility, and the customer generator lessees that lease facilities from it, may participate on an equal basis with other lessors and lessees and in any approved incentive program offered by the utility to its customers.

(b) An electric generator lessor that owns a solar energy facility within the assigned service area of an offering utility and that is located on a premises owned or leased by a customer generator lessee shall be permitted to lease such facility exclusively to a customer generator lessee under a lease, provided that the electric generator lessor complies with the terms, conditions, and restrictions set forth within this section and holds a valid certificate issued by the Commission pursuant to G.S. 62-126.7. An electric generator lessor shall not be considered a "public utility" under G.S. 62-3(23) if the solar energy facility is only made available to a customer generator lessee under a lease that conforms to the requirements of G.S. 62-126.6 for the customer generator lessee's use on its premises where the solar energy facility is located to serve the electric energy requirements of that particular premises, including to enable the customer generator lessee to obtain a credit for the electricity generated under an applicable net metering tariff or to engage in the sale of excess energy from the solar energy facility to an offering utility.

(c) Any lease of a solar energy facility not entered into pursuant to this section is prohibited and any electric generator lessor that enters into a lease outside of an offering utility's program implemented pursuant to this section or otherwise enters into a contract or agreement where payments are based upon the electric output of a solar energy facility shall be considered a "public utility" under G.S. 62-3(23) and be in violation of the franchised service rights of the offering utility or any other electric power supplier authorized to provide retail electric service



1 in the State. This section does not authorize the sale of electricity from solar energy facilities  
2 directly to any customer of an offering utility or other electric power supplier by the owner of a  
3 solar energy facility. The electrical output from any solar energy facility leased pursuant to this  
4 program shall be the sole and exclusive property of the customer generator lessee.

5 (d) The total installed capacity of all solar energy facilities on an offering utility's system  
6 that are leased pursuant to this section shall not exceed ~~one percent (1%)~~ ten percent (10%) of  
7 the previous five-year average of the North Carolina retail contribution to the offering utility's  
8 coincident retail peak demand. The offering utility may refuse to interconnect customers that  
9 would result in this limitation being exceeded. Each offering utility shall establish a program for  
10 new installations of leased equipment to permit the reservation of capacity by customer generator  
11 lessees, whether participating in a public utility or nonutility lessor's leasing program, on its  
12 system, including provisions to prevent or discourage abuse of such programs. Such programs  
13 must provide that only prospective individual customer generator lessees may apply for, receive,  
14 and hold reservations to participate in the offering utility's leasing program. Each reservation  
15 shall be for a single customer premises only and may not be sold, exchanged, traded, or assigned  
16 except as part of the sale of the underlying premises.

17 (d1) A solar energy facility leased to an individual customer generator lessee pursuant to  
18 this section shall not have a capacity greater than 1 MW or the customer's contract demand which  
19 shall approximate the customer's maximum expected demand, whichever is less.

20 (e) To comply with the terms of this section, each customer generator lessor's solar  
21 energy facility shall serve only one premises and shall not serve multiple customer generator  
22 lessees or multiple premises. The customer generator lessee must enroll in the applicable rate  
23 schedule made available by the interconnecting offering utility, subject to the participation  
24 limitations set forth in subsection (a) of this section."

25 **SECTION 1.2.** This Part becomes effective July 1, 2023, and applies to solar energy  
26 facility leases executed on or after that date.

## 27 28 **PART II. RAISE ONE MEGAWATT CAP ON NET METERING TO FIVE** 29 **MEGAWATTS**

30 **SECTION 2.1.** G.S. 62-126.4 is amended by adding a new subsection to read:

31 "(d) The Commission shall expand net metering at the applicable net metering rate to  
32 customers that own and operate a renewable energy facility with a capacity of not more than 5  
33 MW or the customer's contract demand which shall approximate the customer's maximum  
34 expected demand, whichever is less. To comply with the terms of this section, a participating  
35 customer's meter may be served only by a renewable energy facility that serves only one  
36 premises."

37 **SECTION 2.2.** G.S. 62-133.8(i) reads as rewritten:

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

40 ...

41 (6) ~~Consider whether it is in the public interest to adopt~~ Adopt rules for electric  
42 public utilities for net metering of renewable energy facilities with a  
43 generation capacity of ~~one megawatt or less~~ five megawatts or the customer's  
44 contract demand which shall approximate the customer's maximum expected  
45 demand, whichever is less.

46 ...."

## 47 48 **PART III. EFFECTIVE DATE**

49 **SECTION 3.** Except as otherwise provided, this act becomes effective July 1, 2023.