

## NEW ENERGY LEGISLATION WIN & WATCH LIST

### Senate Bill 3: Part Renewable Energy, Part Coal and Nuclear Bill

NCPIRG defended the interests and pocketbooks of residents in shaping the new energy legislation, Senate Bill 3, "Promote Renewable Energy/Baseload Generation." Senate Bill 3 includes the most significant revisions to energy policy in the last quarter of a century. It sets forth a research-based 12.5% renewable energy and efficiency standard, but it also includes expensive coal and nuclear provisions added by utilities.

NCPIRG testified before five Senate and House Committees, advocated in stakeholder meetings, collaborated with allies, contributed to bill drafting, published fact sheets, wrote editorials, and contributed to drafting amendments during the final days of session. Here follows NCPIRG's Win and Watch list for Senate Bill 3.

### WIN LIST

- \* Saving Money, Creating Jobs, Reducing Pollution With Renewable Energy And Efficiency. Research indicates that the 12.5% renewable energy and efficiency requirement will save North Carolinians at least \$577 million over 20 years, compared to utilities' "business as usual." It also will generate 2,700 more jobs per year, and reduce carbon dioxide emissions by at least 13.6 million tons per year. When carbon emissions are capped, this part of the bill could save North Carolinians more than \$340.6 million per year.
- \* Saving Money On Abandoned Plants. As initially drafted, Senate Bill 3 would have allowed utilities to cancel plant construction, and then charge customers for a profit on it. NCPIRG bird-dogged the issue, and challenged the provisions. Despite utilities' opposition, we succeeded in getting cancellation removed from utilities' discretion and in eliminating utilities' right to earn a profit on cancelled plants.
- \* Saving Money On Unreasonable Coal and Nuclear Construction Charges. Utilities' inserted language that would have forced

customers to pay for unreasonable coal and nuclear construction costs or prove that they were unreasonable. During the stakeholder meetings, we collaborated with allies, including Public Staff and the Attorney General, proposed revisions, and successfully amended the provision such that the utilities always carry the burden of proof for their costs. In addition, utilities must demonstrate the exhaustion of cost-effective renewable energy and efficiency in order to gain approval for billion dollar coal and nuclear projects.

- \* Saving Money On Utilities' Pollution. Utilities' efforts to add pollution costs (emission allowances) to the cost of fuel it charged customers were defeated.
- \* Requiring More Accurate Accounting Of Energy Costs. The new energy legislation provides for a more complete accounting of energy costs, including operating and fuel costs, and secondary pollution and health costs incurred because of dirty energy generation.
- \* Requiring Reporting. The cost of the REPS to consumers, the profit made by utilities on the REPS, and the cost of the fuel surcharge will be made publicly available to consumers.
- \* Requiring Clean Renewable Energy. NCPIRG supported amendments to require utilities to use the best available control technology for biomass energy, so that North Carolinians are not paying for renewable, but dirty energy.

#### WATCH LIST

- \* Paying for Incomplete Construction Works in Progress (CWIP). Utilities can recover a profit and finance charges on incomplete plants under construction, including plants out-of-state, without demonstrating financial need. Utilities told the General Assembly that this arrangement would be cheaper for customers, but they presented no fiscal data. Utilities should be held accountable for their claims: if CWIP fails to save customers money or if it costs them more money, then the general prohibition on CWIP must be re-enacted.
  - o Not Capping CWIP. Utilities can revise their construction costs upwards, infinitely. Senate Bill 3 contains no cap on CWIP or on coal and nuclear development costs.

- Competing with Renewable Energy? The cost for renewable energy is capped, but the cost for coal and nuclear construction is not. So utilities may have an incentive to reach the renewable energy cap in order to pursue coal and nuclear investment, which is not capped.
- ✱ Expanding "Fuel" Charges. Several categories of costs were added to the "fuel" cost clause. They are projected to cost \$1.571 billion over the next ten years, which is \$487 million more than the projected cost of the entire renewable energy and efficiency portion of the bill. The Public Staff and the Utilities Commission objected to the way some of the provisions shifted costs to residents. The General Assembly should evaluate whether the additions to the fuel clause were necessary, and whether they impose an unfair financial burden on residents.
- ✱ Overcharging And Underperforming For Efficiency? Utilities have been assigned as the guardians of efficiency, although their business is selling energy. Efficiency should be the cheapest way to meet demand, but utilities' proposals could change that. Legislators and regulators should monitor the cost-effectiveness of this arrangement, and consider whether an independent agency would perform better.
  - Double-charging Residents for Efficiency? Businesses are allowed to opt-out of paying for efficiency programs if they demonstrate that they have implemented their own programs. In contrast, there is no opt-out for residents who implement their own efficiency programs. Legislators and regulators should examine whether utilities are claiming credit for residents' individual actions, and unfairly charging residents for being efficient.
  - Making Up Efficiency Measurements? Are there quantifiable gains in efficiency, and if so, are they attributable to the utilities' efforts or not? Compensation to utilities for promoting efficiency must be tied to efficiency investment and efficiency gains, and must not deprive customers of the economic benefits of efficiency. This will depend upon the Utilities Commission's vigilance.
- ✱ Doubly Recovering For Costs? The sweeping language in the fuel cost clause, REPS, and coal and nuclear financing sections may create legislative loopholes for utilities to double-recover costs.

Consumer protection depends upon the implementation of Senate Bill 3 and the rule-making by the Utilities Commission. The rules should not rely upon utilities' "trust me" for verification.

- ✳ Fishing for Nukes on Consumer's Dime? Utilities may recover "project development costs" for in-state and out-of-state nuclear activities, whether or not those activities result in the production of energy. Moreover, a vague provision related to research for "air quality" may permit utilities to siphon renewable energy funds to nuclear permitting. Legislators and regulators must ensure that utilities do not use these provisions to "go fish" for nuclear permitting.
- ✳ Giving Away Taxes. It seems that every constituency got tax breaks or financial incentives of some kind except residents. The legislature should ensure that the tax give-aways produce a cognizable economic benefit, and that residents are not being unfairly burdened.
- ✳ Denying Tax Credit For Efficient Home Construction. Tax credits for efficient home construction were removed. The upfront incentive, however, could save significant amounts of energy, and forestall the necessity of new, expensive energy generation.
- ✳ Making the Utilities Commission Represent Utilities. Senate Bill 3 enlists the Utilities Commission as an advocate for electric power suppliers by making them report utilities' actions to outside auditors. It is not in the Utilities Commission's nor the consumer's interests to have the Utilities Commission representing the actions of utilities.
- ✳ Paying for Pig Poop Cesspools? Are customers paying for green and clean energy, or are they being forced to subsidize pollution (i.e. sustaining hog lagoons)? The General Assembly must ensure that Senate Bill 3 is not being employed by industrial pig harvesters to sustain environmentally harmful farming practices.