SENATE BILL 266:
The Power Bill Reduction Act.

2025-2026 General Assembly

Committee:		**Date:**	July 29, 2025
Introduced by:	Sens. Moffitt, Daniel, Britt	**Prepared by:**	Jennifer McGinnis
Analysis of:	Ratified		Staff Attorney

OVERVIEW: Senate Bill 266 would:

- ***Eliminate the interim goal for a seventy percent (70%) reduction in carbon dioxide emissions in the State from electric generating facilities owned or operated by certain electric public utilities from 2005 levels by the year 2030.***
- ***Allow an increase in the base rates of an electric public utility for financing costs of construction work in progress for baseload electric generating facilities outside of a general rate case, if the Utilities Commission determines there is an overall cost savings for customers over the life of the generating facility and the facility has been subject to an annual ongoing review process through which the Commission has determined that the expenditures were reasonably and prudently incurred.***
- ***Make various changes to the statutes governing fuel cost recovery and performance-based ratemaking.***
- ***Codify authority for a public utility to securitize costs for retirement of subcritical coal-fired electric generating facilities***

BILL ANALYSIS/CURRENT LAW/BACKGROUND:

ELIMINATE THE INTERIM DATE FOR CARBON REDUCTION BY CERTAIN ELECTRIC PUBLIC UTILITIES

In 2021, the General Assembly enacted legislation to require the Utilities Commission to take all reasonable steps to achieve a 70% reduction in carbon dioxide emissions in the State from electric generating facilities owned or operated by certain electric public utilities[1] from 2005 levels by the year 2030 and carbon neutrality by the year 2050. The Commission was further directed to develop a plan (Carbon Plan), no later than December 31, 2022, with the electric public utilities, including stakeholder input, for the utilities to achieve the authorized reduction goals, with a required review every two years. The legislation requires the Commission to:

- Comply with current law and practice with respect to the least cost planning for generation in achieving the authorized carbon reduction goals and determining generation and resource mix for the future.

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[1] Any electric public utility as defined in G.S. 62-3(23) serving at least 150,000 North Carolina retail jurisdictional customers as of January 1, 2021.

- Ensure any generation and resource changes maintain or improve upon the adequacy and reliability of the existing grid.

The legislation further provides that, subject to certain limitations, the Commission retains discretion to determine optimal timing and generation and resource-mix to achieve the least cost path to compliance with the authorized carbon reduction goals, including discretion in achieving the authorized carbon reduction goals by the dates specified in order to allow for implementation of solutions that would have a more significant and material impact on carbon reduction.

On November 1, 2024, the Commission issued an order approving a series of actions for the electric public utility to take in the near term with respect to the Carbon Plan, which included:

- Retiring the remaining coal-fired generating units, more than 8,000 MW, by 2036.
- Conducting two competitive solar procurements between 2025-2026, targeting 3,460 MW of new controllable solar generation to be placed into service by 2031.
- Procuring 1,100 MW of battery storage, including 475 MW of standalone storage and at least 625 MW of battery energy storage paired with solar generation to be placed into service by 2031.
- Procuring 1,200 MW of onshore wind to achieve commercial operation by 2033, including at least 300 MW targeted for commercial operation by 2031.
- Pursuing the development of 900 MW of new natural gas-fired combustion turbine generation to achieve commercial operation by 2030.
- Pursuing the development of 2,720 MW of new natural gas-fired combined cycle generation to achieve commercial operation by 2031.
- Working toward the construction of 1,834 MW of pumped storage hydropower at the Bad Creek Hydroelectric Station in Oconee County, South Carolina to be placed into service by 2034.
- Conducting early development activities associated with 300 MW of advanced nuclear generation to be placed into service by 2034 and an additional 300 MW of advanced nuclear generation to be placed into service by 2035.
- Continuing to work toward the extension of the operating licenses for the utility's existing nuclear fleet.
- Conducting an advanced request for information (ARFI) process to gather information regarding the development of up to 2,400 MW of offshore wind off the coast of North Carolina to achieve commercial operation by 2035 and taking additional steps subsequent to the ARFI.
- Continuing to plan for 1% load reduction through demand-side management and energy efficiency measures.
- Working with large customers to develop programs aimed at managing and controlling large customer load for the benefit of all customers.

Section 1 would:

Eliminate the interim goal for a 70% reduction in carbon dioxide emissions in the State from electric generating facilities owned or operated by certain electric public utilities from 2005 levels by the year 2030.

MODIFY CONSTRUCTION WORK IN PROGRESS FOR BASELOAD ELECTRIC GENERATING FACILITIES

Under current law, an electric public utility must recover the reasonable and prudent costs it has incurred in constructing a generating facility through rates in a general rate case.

During each year of construction, the utility must submit a progress report and any revision in the cost estimate for the construction approved at the time the Commission issued the Certificate of Public Convenience and Necessity (CPCN) for the generating facility. Upon the request of the utility or upon its own motion, the Commission may conduct an ongoing review of construction of the facility as the construction proceeds.

If construction of a facility is cancelled, and the construction of the facility has been subject to ongoing review, the utility can recover through rates in a general rate case the costs of construction approved by the Commission during the ongoing review that were actually incurred prior to cancellation, amortized over a reasonable time as determined by the Commission.

The utility has the burden of proof to demonstrate that a material item of cost was just and reasonable and prudently incurred.

Section 2 would:

Allow an increase in the base rates of an electric public utility for financing costs of construction work in progress for baseload electric generating facilities outside of a general rate case, if the Utilities Commission determines there is an overall cost savings for customers over the life of the generating facility and the facility has been subject to an annual ongoing review process through which the Commission has determined that the expenditures were reasonably and prudently incurred.

Any recovery under this section would be limited to those financing costs accrued on actual reasonable and prudent construction costs (after taking into account any direct customer contributions actually received that offset such construction costs) up to the estimated construction cost estimate approved by the Commission or as later amended by the Commission. If applicable, any revenues actually received from customers participating in a Commission-approved customer program must be used to reduce the construction costs of the baseload electric generating facility and thereby proportionately reduce the amount of financing costs recovered.

With respect to natural gas baseload electric generating facilities, the authorization to recover financing costs under this section would sunset as of December 31, 2033, for all construction costs incurred after December 31, 2033, but continued recovery of financing cost on construction costs for natural gas baseload electric generating facilities incurred prior to December 31, 2033, would be permitted.

In addition, Section 2 would modify the ongoing review process for facilities under construction, to:

- Require that the public utility submit an application, including detailed documentation and supporting testimony, demonstrating that the public utility's construction and related costs and expenditures incurred during the review period were reasonable and prudently incurred. the review period for each proceeding would be approximately 12 months of construction and related costs and expenditures.
- Specify that the utility would have the burden of proof to demonstrate that all costs and expenditures were reasonable and prudently incurred.
- Require the Commission to conduct a hearing regarding each such review period and allow intervention in such proceeding. The Commission must commence the hearing with respect to each review period within 120 days of the utility's application and issue a decision within 60 days of the close of the hearing, or waiver thereof if no disputed issues have been identified.

FUEL COST RECOVERY MODIFICATIONS

An electric public utility is authorized to charge an increment or decrement as a rider to its rates for changes in the cost of fuel and fuel-related costs used in providing its North Carolina customers with electricity (relative to the cost of fuel and fuel-related costs established in the electric public utility's previous general rate case) on the basis of cost per kilowatt hour. The Commission must conduct a hearing within 12 months of each electric public utility's last general rate case order to determine whether an increment or decrement rider is required to reflect actual changes in the cost of fuel and fuel related costs over or under the cost of fuel and fuel related costs on a kilowatt hour basis in base rates established in the electric public utility's last preceding general rate case. The term "cost of fuel and fuel-related costs" means all of the following:

(1) The cost of fuel burned.
(2) The cost of fuel transportation.
(3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
(4) The total delivered noncapacity related costs, including all related transmission charges, of all purchases of electric power by the electric public utility that are subject to economic dispatch or economic curtailment.
(5) The capacity costs associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, that are subject to economic dispatch by the electric public utility.
(6) Except for those costs recovered pursuant to G.S. 62-133.8(h), the total delivered costs of all purchases of power from renewable energy facilities and new renewable energy facilities pursuant to G.S. 62-133.8 or to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of G.S. 62-133.8.
(7) The fuel cost component of other purchased power.
(8) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of fuel and other fuel-related costs components.
(9) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.

(10) The total delivered costs, including capacity and noncapacity costs, associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, that are not subject to economic dispatch or economic curtailment by the electric public utility and not otherwise recovered under subdivision (6) of this subsection.

(11) All nonadministrative costs related to the renewable energy procurement pursuant to G.S. 62-159.2 not recovered from the program participants.

For those costs identified in subdivisions (4), (5), (6), (10), and (11), the annual increase in the aggregate amount of these costs that are recoverable by a utility pursuant may not exceed 2.5% of the utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year.

<u>Section 3 would:</u>

Amend the statute governing an electric public utility's recovery of fuel costs to:

- Add capacity costs to the total delivered costs of all purchases of electric power and capacity that a utility may recover.
- Modify the language governing allocation of cost recovery among classes of customers to provide that the costs would be allocated on a demand basis.
- Specify that the utility must make appropriate adjustments to its fuel and fuel-related costs to reflect costs already being recovered in base rates so as to avoid double recovery of any fuel and fuel-related costs and the Commission shall approve any accounting adjustments necessary in a future fuel proceeding or general rate case to avoid such double recovery.
- Provide that any experienced over-recovery or under-recovery of reasonable fuel and fuel-related costs prudently incurred shall accrue interest at the commercial paper rate as identified by the Federal Reserve for A2/P2 nonfinancial issuers (or reasonable successor thereto) on a weighted average basis over the applicable time period.
- Require that a utility file a quarterly report detailing its actual over- and under-recovered fuel cost amounts through the quarter and an updated projection of the cumulative over- or under-recovered amounts at the end of such 12 month recovery- period based on the most recently available fuel forecast. If the updated projection of the cumulative over- or under-recovered amounts at the end of such 12 month recovery-period (inclusive of the actual amounts) is greater than 10% of the total revenue requirement approved by the Commission in the most recent fuel proceeding, then the electric public utility must identify the adjustment needed to the increment or decrement rider to address such over- or under-recovery and file an updated tariff to reflect such adjustment as part of such quarterly report. The identified adjustment to the increment or decrement rider would go into effect at the start of the month that is approximately 45 days after the quarterly update filing and would remain in effect for the remainder of the 12 month recovery-period in effect as of the effective date of such adjustment. All of the costs of fuel and fuel-related costs, including those which are recovered through the quarterly adjustment would be reviewed for reasonableness and prudence of such costs in the next annual proceeding held by the Commission to review an electric public utility's annual fuel and fuel-related adjustment.

PERFORMANCE-BASED REGULATION CHANGES

In 2021, the General Assembly enacted a statute authorizing the Commission to use "performance-based regulation" (PBR) for the electric public utilities operating in the State, meaning an alternative ratemaking approach that includes decoupling revenue from electricity consumption, one or more performance incentive mechanisms, and a multi-year rate plan (MYRP), including an earnings sharing mechanism, or such other alternative regulatory mechanisms as can be proposed by an electric public utility.

Among a host of other requirements, the legislation provided that:

- Any MYRP can remain in effect for a plan period of not more than 36 months.
- The amount of increase in the second and third rate years under the MYRP cannot exceed 4% of the electric public utility's North Carolina retail jurisdictional revenue requirement that is used to fix rates during the first year of the MYRP, excluding any revenue requirement for the capital spending projects to be placed in service during the first rate year.
- The revenue requirements associated with any single new generation plant placed in service during the MYRP for which the total plant in service balance exceeds $500 million cannot be included in a MYRP. Instead, the utility can request and the Commission can grant, if it deems appropriate, permission to establish a regulatory asset and defer to such regulatory asset incremental costs related to such electric generation investments to be considered for recovery in a future rate proceeding.

<u>Section 4 would:</u>

Amend the statute governing performance-based ratemaking (PBR) to:

- Exclude combustion turbine generating units which are not part of a combined cycle plant from a prohibition on the inclusion in a MYRP of revenue requirements associated with any single new generation plant placed in service during the MYRP for which the total plant in service balance exceeds $500,000,000.
- Require an electric public utility to:
  - Report quarterly on the status of the approved MYRP projects, including reporting on any project that is cancelled, along with a detailed explanation regarding the reasons for such cancellation and the replacement capital spending project, if any. The Commission may, upon its own motion or petition by the Public Staff, open a proceeding to examine any potentially unreasonable or imprudent cancellations of approved capital spending projects and may initiate a proceeding to adjust base rates as necessary.
  - In any base rate case immediately following an authorized MYRP, report on its execution of the approved MYRP projects with respect to any rate year completed as of the date of the filing of the PBR application, including by explaining any material differences between the approved MYRP projects and the actual executed projects.
- Modify a requirement that the Commission hold a technical conference prior to submission of any PBR application consisting of one or more public meetings at which the utility presents information regarding projected transmission and distribution expenditures and interested parties are permitted to provide comment and feedback.

  The change to the language would only require the Commission to hold one meeting, and would alter the required timing of the conference to provide that it must occur after the electric public utility submits its application but no later than 90 days after the filing of such application and at least 30 days before the deadline established by the Commission for any interested parties to intervene.

CODIFY SECURITIZATION FOR COSTS TO RETIRE COAL PLANTS

In 2019, the General Assembly enacted a statute authorizing electric public utility companies to use bond financing (securitization) for certain storm recovery costs. In 2021, the General Assembly enacted legislation directing the Utilities Commission to adopt rules to authorize an electric public utility to use securitization for costs associated with early retirement of subcritical coal-fired electric generating facilities, with such costs to be securitized at 50% of the remaining net book value of all subcritical coal fired electric generating facilities.

Section 5 would:

Amend the statute authorizing a public utility to securitize storm recovery costs to also codify authority for a public utility to securitize costs for retirement of subcritical coal-fired electric generating facilities. Coal plant retirement costs that could be securitized include 100% of the remaining net book value of all of a public utility's subcritical coal fired electric generating facilities at the time of retirement.

Section 6 would:

Specify that if any provision of the bill or the application thereof is held invalid, that will not affect the remaining provisions of the bill.

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