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May 12, 2021

1 AN ACT TO AUTHORIZE THE UTILITIES COMMISSION TO: (I) TAKE ALL
2 REASONABLE STEPS TO ACHIEVE A 70% REDUCTION IN EMISSIONS OF
3 CARBON DIOXIDE FROM ELECTRIC PUBLIC UTILITIES FROM 2005 LEVELS BY
4 THE YEAR 2030, AND CARBON NEUTRALITY BY THE YEAR 2050; (II)
5 AUTHORIZE PERFORMANCE-BASED REGULATION OF ELECTRIC PUBLIC
6 UTILITIES; (III) PROCEED WITH RULEMAKING ON SECURITIZATION OF
7 CERTAIN COSTS AND OTHER MATTERS; AND (IV) POTENTIAL MODIFICATION
8 OF CERTAIN EXISTING POWER PURCHASE AGREEMENTS WITH ELIGIBLE
9 SMALL POWER PRODUCERS.

10 The General Assembly of North Carolina enacts:

11
12 **PART I. CARBON REDUCTION/FUEL TRANSITION/DECOMMISSIONING**

13 **SECTION 1.** The Utilities Commission shall take all reasonable steps to achieve a
14 seventy percent (70%) reduction in emissions of carbon dioxide (CO₂) emitted in the State from
15 electric generating facilities owned or operated by electric public utilities from 2005 levels by
16 the year 2030, and carbon neutrality by the year 2050. For purposes of this section: (i) "electric
17 public utility" means any electric public utility as defined in G.S. 62-3(23) serving at least
18 150,000 North Carolina retail jurisdictional customers as of January 1, 2021; and (ii) "carbon
19 neutrality" means for every ton of CO₂ emitted in the State from electric generating facilities
20 owned or operated by or on behalf of electric public utilities, an equivalent amount of CO₂ is
21 reduced, removed, prevented, or offset, provided that the offsets are verifiable and do not exceed
22 five percent (5%) of the authorized reduction goal. In achieving the authorized carbon reduction
23 goals, the Utilities Commission shall:

- 24 (1) Develop a plan, no later than December 31, 2022, with the electric public
25 utilities, including stakeholder input, for the utilities to achieve the authorized
26 reduction goals, which may, at a minimum, consider power generation,
27 transmission and distribution, grid modernization, storage, energy efficiency
28 measures, demand-side management, and the latest technological
29 breakthroughs to achieve the least cost path consistent with this section to
30 achieve compliance with the authorized carbon reduction goals (the "Carbon
31 Plan"). The Carbon Plan shall be reviewed every two years and may be
32 adjusted as necessary, in the determination of the Commission and the electric
33 public utilities.



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- 1 (2) Comply with current law and practice with respect to the least cost planning
2 for generation, pursuant to G.S. 62-2(a)(3a), in achieving the authorized
3 carbon reduction goals and determining generation and resource mix for the
4 future. Any new generation facilities or other resources selected by the
5 Commission in order to achieve the authorized reduction goals for electric
6 public utilities shall be owned and recovered on a cost of service basis by the
7 applicable electric public utility except that:
- 8 a. Existing law shall apply with respect to energy efficiency measures
9 and demand-side management.
- 10 b. To the extent that new solar generation is selected by the Commission,
11 in adherence with least cost requirements, the solar generation selected
12 shall be subject to the following: (i) forty-five percent (45%) of the
13 total megawatts alternating current (MW AC) of any solar energy
14 facilities established pursuant to this section shall be supplied through
15 the execution of power purchase agreements with third parties
16 pursuant to which the electric public utility purchases solar energy,
17 capacity, and environmental and renewable attributes from solar
18 energy facilities owned and operated by third parties that are 80 (MW
19 AC) or less that commit to allow the procuring electric public utility
20 rights to dispatch, operate, and control the solicited solar energy
21 facilities in the same manner as the utility's own generating resources;
22 and (ii), fifty-five percent (55%) of the total megawatts alternating
23 current (MW AC) of any solar energy facilities established pursuant
24 to this section shall be supplied from solar energy facilities that are
25 utility-built or purchased by the utility from third parties, and owned
26 and operated and recovered on a cost of service basis by the soliciting
27 electric public utility. These ownership requirements shall be
28 applicable to solar energy facilities: (i) paired with energy storage;
29 and (ii) procured in connection with any voluntary customer program.
- 30 (3) Ensure any generation and resource changes maintain or improve upon the
31 adequacy and reliability of the existing grid.
- 32 (4) Retain discretion to determine optimal timing and generation and
33 resource-mix to achieve the least cost path to compliance with the authorized
34 carbon reduction goals, including discretion in achieving the authorized
35 carbon reduction goals by the dates specified in order to allow for
36 implementation of solutions that would have a more significant and material
37 impact on carbon reduction; provided, however, the Commission shall not
38 exceed the dates specified to achieve the authorized carbon reduction goals by
39 more than two years, except in the event the Commission authorizes
40 construction of a nuclear facility or wind energy facility that would require
41 additional time for completion due to technical, legal, logistical, or other
42 factors beyond the control of the electric public utility, or in the event
43 necessary to maintain the adequacy and reliability of the existing grid. In
44 making such determinations, the Utilities Commission shall receive and
45 consider stakeholder input.

46 **SECTION 2.(a)** G.S. 62-110.8(a) reads as rewritten:

47 **"§ 62-110.8. Competitive procurement of renewable energy.**

48 (a) Each electric public utility shall file for Commission approval a program for the
49 competitive procurement of energy and capacity from renewable energy facilities with the
50 purpose of adding renewable energy to the State's generation portfolio in a manner that allows
51 the State's electric public utilities to continue to reliably and cost-effectively serve customers'

1 future energy needs. Renewable energy facilities eligible to participate in the competitive
2 procurement shall include those facilities that use renewable energy resources identified in
3 G.S. 62-133.8(a)(8) but shall be limited to facilities with a nameplate capacity rating of 80
4 megawatts (MW) or less that are placed in service after the date of the electric public utility's
5 initial competitive procurement. Subject to the limitations set forth in subsections (b) and (c) of
6 this section, the electric public utilities shall issue requests for proposals to procure and shall
7 procure, energy and capacity from renewable energy facilities in the aggregate amount of 2,660
8 megawatts (MW), and the total amount shall be reasonably allocated over a term of 45 months
9 beginning when the Commission approves the program. The Commission shall require the
10 additional competitive procurement of renewable energy capacity by the electric public utilities
11 in an amount that includes all of the following: (i) any unawarded portion of the initial
12 competitive procurement required by this subsection; (ii) any deficit in renewable energy
13 capacity identified pursuant to subdivision (1) of subsection (b) of this section; and (iii) any
14 capacity reallocated pursuant to G.S. 62-159.2. ~~In addition, at the termination of the initial
15 competitive procurement period of 45 months, the offering of a new renewable energy resources
16 competitive procurement and the amount to be procured shall be determined by the Commission,
17 based on a showing of need evidenced by the electric public utility's most recent biennial
18 integrated resource plan or annual update approved by the Commission pursuant to
19 G.S. 62-110.1(e).~~

20 ..."

21 **SECTION 2.(b)** G.S. 62-110.8(h)(5) is repealed.

22 **SECTION 2.(c)** The Commission is authorized to direct the procurement of solar
23 energy facilities in 2022 by the electric public utilities if, after stakeholder participation and
24 review of preliminary analysis developed in preparation of the initial Carbon Plan, the
25 Commission finds that such solar energy facilities will be needed in accordance with the criteria
26 and requirements set forth in Section 1 of this act to achieve the authorized carbon reduction
27 goals.

28 **SECTION 3.** No later than March 1, 2022, the Department of Environmental Quality
29 shall develop a plan to ensure adequate financial resources for the decommissioning of
30 utility-scale solar projects to be submitted to the General Assembly for legislative action. For
31 purposes of this section, "utility-scale solar project" means a ground-mounted photovoltaic (PV),
32 concentrating photovoltaic (CPV), or concentrating solar power (CSP or solar thermal) project
33 capable of generating one megawatt (MW) or more directly connected to the electrical grid for
34 sale to wholesale customers. A utility-scale solar project includes the solar arrays, accessory
35 buildings, transmission facilities, and any other infrastructure necessary for the operation of the
36 project.

37 38 **PART II. AUTHORIZE PERFORMANCE-BASED REGULATION OF ELECTRIC** 39 **PUBLIC UTILITIES**

40 **SECTION 4.(a)** Article 7 of Chapter 62 of the General Statutes is amended by adding
41 a new section to read:

42 **"§ 62-133.16. Performance-based regulation authorized.**

43 **(a) Definitions.** – For purposes of this section, the following definitions apply:

- 44 **(1) "Cost causation principle"** means establishment of a causal link between a
45 specific customer class, how that class uses the electric system, and costs
46 incurred by the electric public utility for the provision of electric service.
- 47 **(2) "Decoupling rate-making mechanism"** means a rate-making mechanism
48 intended to break the link between an electric public utility's revenue and the
49 level of consumption of electricity on a per customer basis by its residential
50 customers.

- 1 (3) "Distributed energy resource" or "DER" means a device or measure that
2 produces electricity or reduces electricity consumption and is connected to the
3 electric distribution system, either on the customer's premises, or on the
4 electric public utility's primary distribution system. A DER may include any
5 of the following: energy efficiency, distributed generation, demand response,
6 microgrids, energy storage, energy management systems, and electric
7 vehicles.
- 8 (4) "Earnings sharing mechanism" means an annual rate-making mechanism that
9 shares surplus earnings between the electric public utility and customers over
10 the period of time covered by a MYRP.
- 11 (5) "Multiyear rate plan" or "MYRP" means a rate-making mechanism under
12 which the Commission sets base rates for a multiyear period that includes
13 authorized periodic changes in base rates without the need for the electric
14 public utility to file a subsequent general rate application pursuant to
15 G.S. 62-133, along with an earnings sharing mechanism.
- 16 (6) "Performance incentive mechanism" or "PIM" means a rate-making
17 mechanism that links electric public utility revenue or earnings to electric
18 public utility performance in targeted areas consistent with policy goals, as
19 that term is defined by this section, approved by the Commission, and includes
20 specific performance metrics and targets against which electric public utility
21 performance is measured.
- 22 (7) "Performance-based regulation" or "PBR" means an alternative rate-making
23 approach that includes decoupling, one or more performance incentive
24 mechanisms, and a multiyear rate plan, including an earnings sharing
25 mechanism, or such other alternative regulatory mechanisms as may be
26 proposed by an electric public utility.
- 27 (8) "Policy goal" means the expected or anticipated achievement of operational
28 efficiency, cost savings, or reliability of electric service that is greater than
29 that which already is required by State or federal law or regulation, including
30 standards the Commission has established by order prior to and independent
31 of a PBR application, provided that, with respect to environmental standards,
32 the Commission may not approve a policy goal that is more stringent than is
33 established (i) by State law, (ii) by federal law, (iii) by the Environmental
34 Management Commission pursuant to G.S. 143B-282, or (iv) by the United
35 States Environmental Protection Agency.
- 36 (9) "Rate year" means the year of the MYRP for which base rates are effective.
- 37 (10) "Tracking metric" means a methodology for tracking and quantitatively
38 measuring and monitoring outcomes or electric public utility performance.

39 (b) Performance-Based Regulation Authorized. – In addition to the method for fixing
40 base rates established under G.S. 62-133, the Commission is authorized to approve
41 performance-based regulation upon application of an electric public utility pursuant to the
42 process and requirements of this section, so long as the Commission allocates the electric public
43 utility's total revenue requirement among customer classes based upon the cost causation
44 principle, including the use of minimum system methodology by an electric public utility for the
45 purpose of allocating distribution costs between customer classes, and interclass subsidization of
46 ratepayers is minimized to the greatest extent practicable by the conclusion of the MYRP period.
47 This section shall not be construed to require the Commission to use the minimum system
48 methodology for the purpose of classifying costs within a customer class when setting a basic
49 facilities charge.

50 (c) Application. – An electric public utility shall be permitted to submit a PBR
51 application in a general rate case proceeding initiated pursuant to G.S. 62-133. A PBR application

1 shall include a decoupling rate-making mechanism, one or more PIMs, and a MYRP, including
2 both an earnings sharing mechanism and proposed revenue requirements and base rates for each
3 of the years that a MYRP is in effect or a method for calculating the same. The PBR application
4 may also include proposed tracking metrics with or without targets or benchmarks to measure
5 electric public utility achievement. The following additional requirements apply to a PBR
6 application:

7 (1) The following shall apply to a MYRP:

8 a. The base rates for the first rate year of a MYRP shall be fixed in the
9 manner prescribed under G.S. 62-133, including actual changes in
10 costs, revenues or the cost of the electric public utility's property used
11 and useful, or to be used and useful within a reasonable time after the
12 test period, plus costs associated with a known and measurable set of
13 capital investments, net of operating benefits, associated with a set of
14 discrete and identifiable capital spending projects to be placed in
15 service during the first rate year. Subsequent changes in base rates in
16 the second and third rate years of the MYRP shall be based on
17 projected incremental Commission-authorized capital investments
18 that will be used and useful during the rate year and associated
19 expenses, net of operating benefits, including operation and
20 maintenance savings, and depreciation of rate base associated with the
21 capital investments, that are incurred or realized during each rate year
22 of the MYRP period; provided that the amount of increase in the
23 second rate year under the MYRP shall not exceed four percent (4%)
24 of the electric public utility's North Carolina retail jurisdictional
25 revenue requirement that is used to fix rates during the first year of the
26 MYRP pursuant to G.S. 62-133 excluding any revenue requirement
27 for the capital spending projects to be placed in service during the first
28 rate year. The amount of increase for the third rate year under the
29 MYRP shall not exceed four percent (4%) of the electric public
30 utility's North Carolina retail jurisdictional revenue requirement that is
31 used to fix rates during the first year of the MYRP pursuant to
32 G.S. 62-133, excluding any revenue requirement for the capital
33 spending projects placed in service during the first rate year. The
34 revenue requirements associated with any single new generation plant
35 placed in service during the MYRP for which the total plant in service
36 balance exceeds five hundred million dollars (\$500,000,000) shall not
37 be included in a MYRP. Instead, the utility may request and the
38 Commission may grant, if it deems appropriate, permission to
39 establish a regulatory asset and defer to such regulatory asset
40 incremental costs related to such electric generation investments to be
41 considered for recovery in a future rate proceeding. In setting the
42 electric public utility's authorized rate of return on equity for an MYRP
43 period, the Commission shall consider any increased or decreased risk
44 to either the electric public utility or its ratepayers that may result from
45 having an approved MYRP.

46 b. In a proceeding authorizing a MYRP, the Commission shall establish
47 a rider to refund amounts related to the earnings sharing mechanism,
48 and to refund or collect amounts related to PIM rewards or penalties,
49 and decoupling adjustments.

50 c. Within 60 days of the conclusion of each rate year, the Commission
51 shall establish a proceeding to:

- 1 1. Examine the earnings of the electric public utility during the
2 rate year to determine if the earnings exceeded the authorized
3 rate of return on equity determined by the Commission in the
4 proceeding establishing the PBR. If the weather-normalized
5 earnings exceed the authorized rate of return on equity plus 50
6 basis points, the excess earnings above the authorized rate of
7 return on equity plus 50 basis points will be refunded to
8 customers in the rider established by the Commission. If the
9 weather-normalized earnings fall below the authorized rate of
10 return on equity, the electric public utility may file a rate case
11 pursuant to G.S. 62-133. Any penalties or rewards from PIM
12 incentives and any incentives related to demand-side
13 management and energy efficiency measures pursuant to
14 G.S. 62-133.9(f) will be excluded from the determination of
15 any refund pursuant to earnings sharing mechanism.
- 16 2. Evaluate the performance of the electric public utility with
17 respect to Commission approved PIMs applicable in the rate
18 year. Any financial rewards shall be collected from customers
19 and any penalties refunded to customers, in each case, through
20 the rider established by the Commission.
- 21 3. Evaluate the decoupling rate-making mechanism, and refund
22 or collect, as applicable, a corresponding amount from
23 residential customers through the rider established by the
24 Commission.
- 25 (2) The proposed decoupling mechanism shall only be applied to residential
26 customer classes. The Commission shall establish an annual revenue
27 requirement per residential customer and an appropriate distribution of said
28 revenue requirement per customer in each month of the year. The established
29 monthly revenue requirements times the actual number of residential
30 customers each month shall become the target revenue for the residential
31 class. Each month, the electric public utility shall defer to a regulatory asset
32 or liability account the difference between the actual revenue and the target
33 revenue for the residential class. The changes in revenue requirements for the
34 second and third rate years shall be allocated to the residential customer class
35 and divided by the number of residential customers to determine the
36 appropriate adjustment to the annual revenue requirement per residential
37 customer that is used to establish the target revenues for the residential class
38 in the second and third rate years of a MYRP. The electric public utility may
39 exclude rate schedules or riders for electric vehicle charging, including EV
40 charging during off-peak periods on time-of-use rates, from the decoupling
41 mechanism to preserve the electric public utility's incentive to encourage
42 electric vehicle adoption.
- 43 (3) The policy goal targeted by a PIM shall be clearly defined, measurable with a
44 defined performance metric, and solely or primarily within the electric public
45 utility's control.
- 46 (4) Any PIM shall be structured to ensure that, pursuant to subdivisions (1) and
47 (2) of this subsection, any penalty shall be refunded to customers and any
48 reward shall be collected from customers and shall be limited such that the
49 total of all potential and actual PIM incentives or penalties does not exceed
50 one percent (1%) of the electric public utility's total annual revenue
51 requirement that is used to fix rates during the first year of the MYRP pursuant

1 to G.S. 62-133, excluding any revenue requirement for the capital spending
2 projects to be placed in service during the first rate year, where the PIM is
3 approved. Any incentives related to demand-side management and energy
4 efficiency measures pursuant to G.S. 62-133.9(f) shall be excluded from the
5 limits established in this section and shall continue to be recovered through
6 the demand-side management and energy efficiency (DSM/EE) rider.

7 (5) Subject to the limitations set out in the preceding subdivision, any PIMs
8 proposed by an electric public utility shall include one or more of the
9 following:

10 a. Rewards based on the sharing of savings achieved by meeting or
11 exceeding a specific policy goal.

12 b. Rewards or penalties based on differentiated authorized rates of return
13 on common equity to encourage utility investments or operational
14 changes to meet a specific policy goal, which shall not be greater than
15 25 basis points.

16 c. Fixed financial rewards to encourage achievement of specific policy
17 goals, or fixed financial penalties for failure to achieve policy goals.

18 (d) Commission Action on Application. –

19 (1) The Commission shall approve a PBR application by an electric public utility
20 only upon a finding that a proposed PBR would result in just and reasonable
21 rates, is in the public interest, and is consistent with the criteria established in
22 this section and rules adopted thereunder. In reviewing any such PBR
23 application under this section, the Commission shall consider whether the
24 PBR application:

25 a. Assures that no customer or class of customers is unreasonably harmed
26 and that the rates are fair both to the electric public utility and to the
27 customer.

28 b. Reasonably assures the continuation of safe and reliable electric
29 service.

30 c. Will not unreasonably prejudice any class of electric customers and
31 result in sudden substantial rate increases or "rate shock" to customers.

32 (2) In reviewing any such PBR application under this section, the Commission
33 may consider whether the PBR application:

34 a. Encourages peak load reduction or efficient use of the system.

35 b. Encourages utility-scale renewable energy and storage.

36 c. Encourages DERs.

37 d. Reduces low-income energy burdens.

38 e. Encourages energy efficiency.

39 f. Encourages carbon reductions.

40 g. Encourages beneficial electrification, including electric vehicles.

41 h. Supports equity in contracting.

42 i. Promotes resilience and security of the electric grid.

43 j. Maintains adequate levels of reliability and customer service.

44 k. Promotes rate designs that yield peak load reduction or beneficial
45 load-shaping.

46 (3) When an electric public utility files with the Commission an application for a
47 general rate case pursuant to G.S. 62-133 and that application includes a PBR
48 application, the Commission shall institute proceedings on the application as
49 provided in this subdivision. The electric public utility shall not make any
50 changes in any rate or implement a PBR except upon 30 days' notice to the
51 Commission, and the Commission may require the electric public utility to

1 provide notice of the pending PBR application to the same extent as provided
2 in G.S. 62-134(a) and may suspend the effect of the proposed base rates and
3 PBR implementation pending investigation in the same manner as provided
4 in G.S. 62-134(b), provided that, the Commission may suspend the
5 implementation of the proposed base rates for no longer than 300 days. The
6 electric public utility's application shall plainly state the changes in base rates
7 and the time when the change in rates will go into effect and shall include
8 schedules in the same manner required pursuant to G.S. 62-134(a). The
9 Commission shall, upon reasonable notice, conduct a hearing concerning the
10 lawfulness of the proposed base rates and the PBR application. After hearing,
11 the Commission shall issue an order approving, modifying, or rejecting the
12 electric public utility's PBR application. In the event that the Commission
13 rejects a PBR application, the Commission shall nevertheless establish the
14 electric public utility's base rates in accordance with G.S. 62-133 based on the
15 PBR application. If the Commission rejects the PBR application, it shall
16 provide an explanation of the deficiency and an opportunity for the electric
17 public utility to refile, or for the electric public utility and the stakeholders to
18 collaborate to cure the identified deficiency and refile.

19 (e) Commission Review. – At any time prior to expiration of a PBR plan period, the
20 Commission, with good cause and upon its own motion or petition by the Public Staff, may
21 examine the reasonableness of an electric public utility's rates under a plan, conduct periodic
22 reviews with opportunities for public hearings and comments from interested parties, and initiate
23 a proceeding to adjust base rates or PIMs as necessary. In addition, the approval of a PBR shall
24 not be construed to limit the Commission's authority to grant additional deferrals between rate
25 cases for extraordinary costs not otherwise recognized in rates.

26 (f) Plan Period. – Any PBR application approved pursuant to this section shall remain in
27 effect for a plan period of not more than 36 months.

28 (g) Commission Authority Preserved. – Nothing in this section shall be construed to (i)
29 limit or abrogate the existing rate-making authority of the Commission or (ii) invalidate or void
30 any rates approved by the Commission prior to the effective date of this section. In all respects,
31 the alternative rate-making mechanisms, designs, plans, or settlements shall operate
32 independently, and be considered separately, from riders or other cost recovery mechanisms
33 otherwise allowed by law, unless otherwise incorporated into such plan.

34 (h) Utility Reporting. – For purposes of measuring an electric public utility's earnings
35 under a PBR application approved under this section, an electric public utility shall make an
36 annual filing that sets forth the electric public utility's earned return on equity, the electric public
37 utility's revenue requirement trued-up with the actual electric public utility revenue, the amount
38 of revenue adjustment in terms of customer refund or surcharge, if applicable, and the
39 adjustments reflecting rewards or penalties provided for in PIMs approved by the Commission.

40 (i) Commission Report. – No later than April 1 of each year, the Commission shall
41 submit a report on the activities taken by the Commission to implement, and by electric public
42 utilities to comply with, the requirements of this section to the Governor, the Environmental
43 Review Commission, the Joint Legislative Commission on Energy Policy, the Joint Legislative
44 Oversight Committee on Agriculture and Natural and Economic Resources, the chairs of the
45 Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs
46 of the House of Representatives Appropriations Committee on Agriculture and Natural and
47 Economic Resources, and the chairs of the House Committee on Energy and Public Utilities. The
48 report shall include a summary of public comments received by the Commission. In developing
49 the report, the Commission shall consult with the Department of Environmental Quality.

50 (j) Rulemaking. – The Commission shall adopt rules to implement the requirements of
51 this section. Rules adopted shall include all of the following matters:

- 1 (1) The specific procedures and requirements that an electric public utility shall
2 meet when requesting approval of a PBR application.
- 3 (2) The criteria for evaluating a PBR application.
- 4 (3) The parameters for a technical conference process to be conducted by the
5 Commission prior to submission of any PBR application consisting of one or
6 more public meetings at which the electric public utility presents information
7 regarding projected transmission and distribution expenditures and interested
8 parties are permitted to provide comment and feedback; provided, however,
9 no cross-examination of parties shall be permitted. The technical conference
10 process to be established shall not exceed a duration of 60 days from the date
11 on which the electric public utility requests initiation of such process.
- 12 (4) In the event the Commission rejects a PBR application, the process by which
13 an electric public utility may address the Commission's reasons for rejection
14 of a PBR application, which process may include collaboration between
15 stakeholders and the electric public utility to cure any identified deficiency in
16 an electric public utility's PBR application."

17 **SECTION 4.(b)** The Commission shall adopt rules as required by G.S. 62-133.16(j),
18 as enacted by subsection (a) of this section, no later than 120 days after the date this section
19 becomes law.

20 **SECTION 4.(c)** This section is effective when it becomes law and applies to any
21 rate-making mechanisms filed by an electric public utility on or after the date that rules adopted
22 pursuant to G.S. 62-133.16, as enacted by subsection (a) of this section, become effective.
23

24 **PART III. RULEMAKING**

25 **SECTION 5.** The Utilities Commission is authorized to and shall within 180 days of
26 the effective date of this section, with stakeholder input and participation, establish rules for
27 securitization of costs associated with early retirement of subcritical coal-fired electric generating
28 facilities. With respect to securitization of costs associated with early retirement of subcritical
29 coal-fired electric generating facilities, the Commission shall develop rules to determine costs to
30 be securitized at fifty percent (50%) of the remaining net book value of all subcritical coal-fired
31 electric generating facilities to be retired to achieve the authorized carbon reduction goals set
32 forth in Section 1 of this act, with any remaining non-securitized costs to be recovered through
33 rates. Rules, procedures, obligations, and protections adopted for securitization of costs
34 associated with retirement of subcritical coal-fired generating facilities shall be substantively
35 identical to the provisions of Section 1 of S.L. 2019-244, except with respect to the purposes for
36 which securitization may be used under that section. The Utilities Commission shall also: (i)
37 evaluate and modify as necessary existing standby service charges; (ii) revise net metering rates;
38 (iii) establish an on utility bill repayment program related to energy efficiency investments; and
39 (iv) establish a rider for a voluntary program that will allow industrial, commercial, and
40 residential customers who elect to purchase from the electric public utility renewable energy or
41 renewable energy credits, including in any program in which the identified resources are owned
42 by the utility in accordance with sub-subdivision b. of sub-division (2) of Section 1 of this act, to
43 offset their energy consumption, which shall ensure that customers who voluntarily elect to
44 purchase renewable energy or renewable energy credits through such programs bear the full
45 direct and indirect cost of those purchases, and that customers that do not participate in such
46 arrangements are held harmless, and neither advantaged nor disadvantaged, from the impacts of
47 the renewable energy procured on behalf of the program customer, and no cross-subsidization
48 occurs.
49

50 **PART IV. POTENTIAL MODIFICATION OF CERTAIN EXISTING POWER** 51 **PURCHASE AGREEMENTS WITH ELIGIBLE SMALL POWER PRODUCERS**

1 **SECTION 6.(a)** Within 120 days after the effective date of this section, the North
2 Carolina Utilities Commission shall initiate a docket to establish the rates to be paid by the
3 electric public utilities in connection with a one-time option to modify certain existing power
4 purchase agreements with eligible small power producers that would accomplish all of the
5 following:

- 6 (1) Provide eligible small power producers a one-time option to elect, within 180
7 days of a Commission order authorizing such action, to amend their existing
8 power purchase agreement, extending into a new longer term power purchase
9 agreement for a term equal to the remaining term of the existing power
10 purchase agreement plus an additional 10 years, notwithstanding the contract
11 term limits prescribed in G.S. 62-156(c).
- 12 (2) Establish capacity and energy rates to be paid by the electric public utilities
13 under such amended power purchase agreement, that:
- 14 a. Take into consideration: (i) the currently contracted capacity and
15 energy rates relative to the currently contracted term of the applicable
16 power purchase agreement and (ii) capacity and energy rates at the
17 time the eligible small power producer elects to exercise the option to
18 amend their existing power purchase agreement as provided for in this
19 section relative to the additional 10 year term
- 20 b. Are just and reasonable to all classes of customers of the electric public
21 utilities, and in the public interest.
- 22 c. Result in: (i) an immediate reduction in the cost of electricity for all
23 classes of customers of the electric public utilities; and (ii) a reduction
24 in the estimated long-term cost of electricity for all classes of
25 customers of the electric public utilities.

26 **SECTION 6.(b)** For purposes of this section, the term “eligible small power
27 producers” means small power producers, as that term is defined under G.S. 62-3(27a),
28 generating solar electricity with a total capacity equal to or less than five megawatts (AC) that
29 established a legally enforceable obligation in accordance with the Commission’s then applicable
30 requirements on or before November 15, 2016 and have entered into a long-term contract
31 exceeding two years to sell their full output to the interconnected electric public utility under
32 Section 210 of the Public Utility Regulatory Policies Act of 1978.

33 **SECTION 6.(c)** Notwithstanding the forgoing, it is hereby declared appropriate, in
34 the public interest and in an effort to achieve regulatory economy, eligible small power producers
35 and the electric public utilities are encouraged to negotiate amendments to the power purchase
36 agreements of such eligible small power producers in lieu of the aforementioned proceeding,
37 provided that the intent and objectives of this section are accomplished through such negotiation
38 and electing eligible small power producers are treated in a non-discriminatory manner.
39

40 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

41 **SECTION 7.** If any provision of this act or the application thereof to any person or
42 circumstances is held invalid, such invalidity shall not affect other provisions or applications of
43 this act that can be given effect without the invalid provision or application, and, to this end, the
44 provisions of this act are declared to be severable.

45 **SECTION 8.** This act is effective when it becomes law.