

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

D

HOUSE BILL 951
Committee Substitute Favorable 7/13/21
Third Edition Engrossed 7/15/21
PROPOSED SENATE COMMITTEE SUBSTITUTE H951-PCS10540-RI-34

Short Title: Energy Solutions for North Carolina.

(Public)

Sponsors:

Referred to:

May 12, 2021

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE UTILITIES COMMISSION TO (I) TAKE ALL REASONABLE STEPS TO ACHIEVE A SEVENTY PERCENT REDUCTION IN EMISSIONS OF CARBON DIOXIDE FROM ELECTRIC PUBLIC UTILITIES FROM 2005 LEVELS BY THE YEAR 2030 AND CARBON NEUTRALITY BY THE YEAR 2050, (II) AUTHORIZE PERFORMANCE-BASED REGULATION OF ELECTRIC PUBLIC UTILITIES, (III) PROCEED WITH RULEMAKING ON SECURITIZATION OF CERTAIN COSTS AND OTHER MATTERS, AND (IV) ALLOW POTENTIAL MODIFICATION OF CERTAIN EXISTING POWER PURCHASE AGREEMENTS WITH ELIGIBLE SMALL POWER PRODUCERS.

The General Assembly of North Carolina enacts:

PART I. CARBON REDUCTION/FUEL TRANSITION/DECOMMISSIONING

SECTION 1. The Utilities Commission shall take all reasonable steps to achieve a seventy percent (70%) reduction in emissions of carbon dioxide (CO₂) emitted in the State from electric generating facilities owned or operated by electric public utilities from 2005 levels by the year 2030 and carbon neutrality by the year 2050. For purposes of this section, (i) "electric public utility" means 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, and (ii) "carbon neutrality" means for every ton of CO₂ emitted in the State from electric generating facilities owned or operated by or on behalf of electric public utilities, an equivalent amount of CO₂ is reduced, removed, prevented, or offset, provided that the offsets are verifiable and do not exceed five percent (5%) of the authorized reduction goal. In achieving the authorized carbon reduction goals, the Utilities Commission shall:

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



* H 9 5 1 - P C S 1 0 5 4 0 - R I - 3 4 *

- 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 MW AC of any solar
23 energy facilities established pursuant to this section shall be supplied
24 from solar energy facilities that are utility-built or purchased by the
25 utility from third parties and owned and operated and recovered on a
26 cost of service basis by the soliciting electric public utility. These
27 ownership requirements shall be applicable to solar energy facilities
28 (i) paired with energy storage and (ii) procured in connection with any
29 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 **SECTION 2.(b)** G.S. 62-110.8(h)(5) is repealed.

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

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

36 37 **PART II. AUTHORIZE PERFORMANCE-BASED REGULATION OF ELECTRIC** 38 **PUBLIC UTILITIES**

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

41 **"§ 62-133.16. Performance-based regulation authorized.**

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

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

1 electric distribution system, either on the customer's premises or on the
2 electric public utility's primary distribution system. A DER may include any
3 of the following: energy efficiency, distributed generation, demand response,
4 microgrids, energy storage, energy management systems, and electric
5 vehicles.

6 (4) "Earnings sharing mechanism" means an annual rate-making mechanism that
7 shares surplus earnings between the electric public utility and customers over
8 the period of time covered by a MYRP.

9 (5) "Multiyear rate plan" or "MYRP" means a rate-making mechanism under
10 which the Commission sets base rates for a multiyear period that includes
11 authorized periodic changes in base rates without the need for the electric
12 public utility to file a subsequent general rate application pursuant to
13 G.S. 62-133, along with an earnings sharing mechanism.

14 (6) "Performance incentive mechanism" or "PIM" means a rate-making
15 mechanism that links electric public utility revenue or earnings to electric
16 public utility performance in targeted areas consistent with policy goals, as
17 that term is defined by this section, approved by the Commission, and includes
18 specific performance metrics and targets against which electric public utility
19 performance is measured.

20 (7) "Performance-based regulation" or "PBR" means an alternative rate-making
21 approach that includes decoupling, one or more performance incentive
22 mechanisms, and a multiyear rate plan, including an earnings sharing
23 mechanism, or such other alternative regulatory mechanisms as may be
24 proposed by an electric public utility.

25 (8) "Policy goal" means the expected or anticipated achievement of operational
26 efficiency, cost-savings, or reliability of electric service that is greater than
27 that which already is required by State or federal law or regulation, including
28 standards the Commission has established by order prior to and independent
29 of a PBR application, provided that, with respect to environmental standards,
30 the Commission may not approve a policy goal that is more stringent than is
31 established by (i) State law, (ii) federal law, (iii) the Environmental
32 Management Commission pursuant to G.S. 143B-282, or (iv) the United
33 States Environmental Protection Agency.

34 (9) "Rate year" means the year of the MYRP for which base rates are effective.

35 (10) "Tracking metric" means a methodology for tracking and quantitatively
36 measuring and monitoring outcomes or electric public utility performance.

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

48 (c) Application. – An electric public utility shall be permitted to submit a PBR
49 application in a general rate case proceeding initiated pursuant to G.S. 62-133. A PBR application
50 shall include a decoupling rate-making mechanism, one or more PIMs, and a MYRP, including
51 both an earnings sharing mechanism and proposed revenue requirements and base rates for each

1 of the years that a MYRP is in effect or a method for calculating the same. The PBR application
2 may also include proposed tracking metrics with or without targets or benchmarks to measure
3 electric public utility achievement. The following additional requirements apply to a PBR
4 application:

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

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

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

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

50 1. Examine the earnings of the electric public utility during the
51 rate year to determine if the earnings exceeded the authorized

1 approved. Any incentives related to demand-side management and energy
2 efficiency measures pursuant to G.S. 62-133.9(f) shall be excluded from the
3 limits established in this section and shall continue to be recovered through
4 the demand-side management and energy efficiency (DSM/EE) rider.

5 (5) Subject to the limitations set out in subdivision (4) of this subsection, any
6 PIMs proposed by an electric public utility shall include one or more of the
7 following:

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

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

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

16 (d) Commission Action on Application. –

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

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

26 b. Reasonably assures the continuation of safe and reliable electric
27 service.

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

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

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

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

34 c. Encourages DERs.

35 d. Reduces low-income energy burdens.

36 e. Encourages energy efficiency.

37 f. Encourages carbon reductions.

38 g. Encourages beneficial electrification, including electric vehicles.

39 h. Supports equity in contracting.

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

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

42 k. Promotes rate designs that yield peak load reduction or beneficial
43 load-shaping.

44 (3) When an electric public utility files with the Commission an application for a
45 general rate case pursuant to G.S. 62-133 and that application includes a PBR
46 application, the Commission shall institute proceedings on the application as
47 provided in this subdivision. The electric public utility shall not make any
48 changes in any rate or implement a PBR except upon 30 days' notice to the
49 Commission, and the Commission may require the electric public utility to
50 provide notice of the pending PBR application to the same extent as provided
51 in G.S. 62-134(a) and may suspend the effect of the proposed base rates and

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

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

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

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

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

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

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

- 50 (1) The specific procedures and requirements that an electric public utility shall
51 meet when requesting approval of a PBR application.

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

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

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

21 **PART III. RULEMAKING**

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

47 **PART IV. POTENTIAL MODIFICATION OF CERTAIN EXISTING POWER** 48 **PURCHASE AGREEMENTS WITH ELIGIBLE SMALL POWER PRODUCERS**

49 **SECTION 6.(a)** Within 120 days after the effective date of this section, the North
50 Carolina Utilities Commission shall initiate a docket to establish the rates to be paid by the
51

1 electric public utilities in connection with a one-time option to modify certain existing power
2 purchase agreements with eligible small power producers that would accomplish all of the
3 following:

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

24 **SECTION 6.(b)** For purposes of this section, the term "eligible small power
25 producers" means small power producers, as that term is defined under G.S. 62-3(27a),
26 generating solar electricity with a total capacity equal to or less than 5 megawatts alternating
27 current (MW AC) that established a legally enforceable obligation in accordance with the
28 Commission's then applicable requirements on or before November 15, 2016, and have entered
29 into a long-term contract exceeding two years to sell their full output to the interconnected
30 electric public utility under section 210 of the Public Utility Regulatory Policies Act of 1978.

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

37 38 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

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

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