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SENATE BILL DRS45480-NPa-27

Short Title: My Power Bill Is Too High. (Public)

Sponsors: Senators Murdock and Salvador (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REPEAL MULTIYEAR RATE-MAKING AUTHORITY AUTHORIZED BY
3 S.L. 2021-165 AND TO DIRECT A REEXAMINATION OF PERFORMANCE-BASED
4 RATE MAKING TO BETTER PROTECT NORTH CAROLINA CUSTOMERS.

5 Whereas, S.L. 2021-165 (House Bill 951) authorized performance-based rate making
6 and multiyear rate plans for electric public utilities; and

7 Whereas, under current law, electric public utilities are permitted to propose multiyear
8 rate plans (MYRPs) that allow rates to increase automatically over several years without the same
9 levels of annual regulatory scrutiny; and

10 Whereas, performance-based rate making was intended to align utility financial
11 incentives with outcomes that matter to consumers, including lower costs, reliability, and
12 efficiency; and

13 Whereas, under House Bill 951, performance incentive mechanisms (PIMs) are tied
14 to utility earnings but remain limited in financial impact relative to overall utility revenues and
15 capital investment decisions; and

16 Whereas, utilities operating under traditional regulatory structures continue to earn
17 results based primarily on capital investment, meaning they are financially incentivized to build
18 more generation, transmission, and infrastructure, regardless of whether lower-cost alternatives
19 such as energy efficiency or demand-side management would better serve customers; and

20 Whereas, performance incentive mechanisms in North Carolina have been discussed
21 and implemented at levels that are effectively capped at approximately one percent (1%) of utility
22 earnings, which is insufficient to outweigh the financial incentives associated with large-scale
23 capital investments; and

24 Whereas, a performance incentive capped at or near one percent (1%) cannot
25 reasonably be expected to drive changes in utility decision making when utilities may earn
26 significantly higher returns through capital expenditures; and

27 Whereas, as a result, current performance-based rate-making structures do not
28 meaningfully change utility behavior or adequately protect consumers from rising electricity
29 costs; and

30 Whereas, consumers reasonably expect that energy policy will prioritize lower bills,
31 fewer unnecessary infrastructure costs, and real accountability for utility performance; and

32 Whereas, without stronger incentives or penalties tied directly to outcomes that matter
33 to customers—such as bill affordability, peak demand reduction, and avoided infrastructure
34 costs—performance-based rate making risks becoming a nominal reform rather than a
35 meaningful consumer protection tool; and



1 Whereas, the General Assembly finds that stronger performance incentives and
 2 greater regulatory accountability are necessary to ensure that utility actions align with consumer
 3 interests; Now, therefore,
 4 The General Assembly of North Carolina enacts:

5
 6 **REPEAL OF MULTIYEAR RATE PLANS**

7 **SECTION 1.** General Rate Case. – G.S. 62-133 is amended by adding a new
 8 subsection to read:

9 "(g) Notwithstanding any other provision of law, rates for electric public utilities shall be
 10 established only through a general rate case conducted pursuant to this section. The Commission
 11 shall not approve or implement any form of automatic or preauthorized multiyear rate adjustment
 12 mechanism."

13 **SECTION 2.(a)** Repeal MYRP. – G.S. 62-133.16 reads as rewritten:

14 **"§ 62-133.16. Performance-based regulation authorized.**

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

16 ...

17 (4) "Earnings sharing mechanism" means an annual rate-making mechanism that
 18 shares surplus earnings between the electric public utility and customers over
 19 ~~the~~ a period of time covered by a MYRP/PBR plan.

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

25 ...

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

31 ...

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

33 ...

34 (c) Application. – An electric public utility shall be permitted to submit a PBR
 35 application in a general rate case proceeding initiated pursuant to G.S. 62-133. A PBR application
 36 shall include a decoupling rate-making mechanism, one or more PIMs, ~~and a MYRP, including~~
 37 ~~both an earnings sharing mechanism~~ mechanism, and proposed revenue requirements and base
 38 rates for ~~each of the years that a MYRP~~ the year that PBR is in effect or a method for calculating
 39 the same. The PBR application may also include proposed tracking metrics with or without
 40 targets or benchmarks to measure electric public utility achievement. The following additional
 41 requirements apply to a PBR application:

42 (1) The following shall apply ~~to a MYRP:~~ under PBR:

43 a. ~~The base rates for the first rate year of a MYRP shall be fixed in the~~
 44 ~~manner prescribed under G.S. 62-133, including actual changes in~~
 45 ~~costs, revenues, or the cost of the electric public utility's property used~~
 46 ~~and useful, or to be used and useful within a reasonable time after the~~
 47 ~~test period, plus costs associated with a known and measurable set of~~
 48 ~~capital investments, net of operating benefits, associated with a set of~~
 49 ~~discrete and identifiable capital spending projects to be placed in~~
 50 ~~service during the first rate year. Subsequent changes in base rates in~~
 51 ~~the second and third rate years of the MYRP shall be based on~~

1 projected incremental Commission-authorized capital investments
2 that will be used and useful during the rate year and associated
3 expenses, net of operating benefits, including operation and
4 maintenance savings, and depreciation of rate base associated with the
5 capital investments, that are incurred or realized during each rate year
6 of the MYRP period; provided that the amount of increase in the
7 second rate year under the MYRP shall not exceed four percent (4%)
8 of the electric public utility's North Carolina retail jurisdictional
9 revenue requirement that is used to fix rates during the first year of the
10 MYRP pursuant to G.S. 62-133 excluding any revenue requirement
11 for the capital spending projects to be placed in service during the first
12 rate year. The amount of increase for the third rate year under the
13 MYRP shall not exceed four percent (4%) of the electric public
14 utility's North Carolina retail jurisdictional revenue requirement that is
15 used to fix rates during the first year of the MYRP pursuant to
16 G.S. 62-133, excluding any revenue requirement for the capital
17 spending projects placed in service during the first rate year. The
18 revenue requirements associated with any single new generation plant
19 placed in service during the MYRP for which the total plant in service
20 balance exceeds five hundred million dollars (\$500,000,000) shall not
21 be included in a MYRP, except that combustion turbine generating
22 units which are not part of a combined cycle generating unit may be
23 included in the MYRP subject to the four percent (4%) limit identified
24 in this subdivision. In the alternative, the utility may request and the
25 Commission may grant, if it deems appropriate, permission to
26 establish a regulatory asset and defer to such regulatory all or a portion
27 of the asset incremental costs related to such electric generation
28 investments to be considered for recovery in a future rate proceeding.
29 In setting the electric public utility's authorized rate of return on equity
30 for an MYRP period, the Commission shall consider any increased or
31 decreased risk to either the electric public utility or its ratepayers that
32 may result from having an approved MYRP.

33 b. In a proceeding authorizing a MYRP, PBR plan, the Commission shall
34 establish a rider to refund amounts related to the earnings sharing
35 mechanism, and to refund or collect amounts related to PIM rewards
36 or penalties, and decoupling adjustments.

37 ...

38 d. In addition to the annual review process set forth in sub-subdivision c.
39 of this subdivision, the following shall apply:

40 1. For each quarter of a MYRP, the electric public utility shall
41 report regarding the status of the approved MYRP projects in
42 the manner directed by the Commission, including reporting
43 on any project that is canceled, along with a detailed
44 explanation regarding the reasons for such cancellation and the
45 replacement capital spending project, if any. The Commission
46 may, upon its own motion or petition by the Public Staff, open
47 a proceeding to examine any potentially unreasonable or
48 imprudent cancellations of approved capital spending projects
49 and may initiate a proceeding to adjust base rates as necessary
50 or direct further action with respect to such canceled project.

2. ~~In any base rate case immediately following an authorized MYRP, the electric public utility shall be obligated to 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.~~

(2) The proposed decoupling mechanism shall only be applied to residential customer classes. The Commission shall establish an annual revenue requirement per residential customer and an appropriate distribution of said revenue requirement per customer in each month of the year. The established monthly revenue requirements times the actual number of residential customers each month shall become the target revenue for the residential class. Each month, the electric public utility shall defer to a regulatory asset or liability account the difference between the actual revenue and the target revenue for the residential class. ~~The changes in revenue requirements for the second and third rate years shall be allocated to the residential customer class and divided by the number of residential customers to determine the appropriate adjustment to the annual revenue requirement per residential customer that is used to establish the target revenues for the residential class in the second and third rate years of a MYRP.~~ The electric public utility may exclude rate schedules or riders for electric vehicle charging, including EV charging during off-peak periods on time-of-use rates, from the decoupling mechanism to preserve the electric public utility's incentive to encourage electric vehicle adoption.

...
(4) Any PIM shall be structured to ensure that, pursuant to subdivisions (1) and (2) of this subsection, any penalty shall be refunded to customers and any reward shall be collected from customers and shall be limited such that the total of all potential and actual PIM incentives or penalties does not exceed one percent (1%) of the electric public utility's total annual revenue requirement that is used to fix rates during the first year of the MYRP pursuant to ~~G.S. 62-133, excluding any revenue requirement for the capital spending projects to be placed in service during the first rate year, where the PIM is approved.~~ G.S. 62-133. Any incentives related to demand-side management and energy efficiency measures pursuant to G.S. 62-133.9(f) shall be excluded from the limits established in this section and shall continue to be recovered through the demand-side management and energy efficiency (DSM/EE) rider.

...
(f) Plan Period. – Any PBR application approved pursuant to this section shall remain in effect for a plan period of not more than ~~36~~12 months.

...
(k) Limitation. – Nothing in this section shall be construed to authorize multiyear rate plans or automatic rate adjustments outside of a general rate proceeding."

SECTION 2.(b) Conforming Changes. – G.S. 62-133.16, as amended by subsection (a) of this section, is amended by deleting "MYRP" wherever it appears and substituting "PBR."

STUDY OF PERFORMANCE-BASED RATE MAKING

SECTION 3.(a) PBR Study. – The Utilities Commission shall conduct a study evaluating the effectiveness of performance-based rate making authorized by S.L. 2021-165. The study shall include each of the following:

- 1 (1) An assessment of whether any current performance incentive mechanisms
- 2 materially influence utility investment decisions.
- 3 (2) A comparison of performance incentive earnings to returns on capital
- 4 investments.
- 5 (3) An evaluation of the impact of incentive structures that are capped at or near
- 6 one percent (1%) of the electric public utility's total annual revenue
- 7 requirement.
- 8 (4) A comparison of different options to increase or remove caps on performance
- 9 incentives.
- 10 (5) Any recommendations to better align utility earnings with customer
- 11 affordability, reduction in system costs, and avoidance of unnecessary capital
- 12 investments.

13 **SECTION 3.(b)** Reporting Requirement. – The Utilities Commission shall submit
14 the study required by subsection (a) of this section to the Joint Legislative Energy Policy
15 Commission by no later than March 1, 2027.

16 **SECTION 4.** Appropriation. – There is appropriated from the General Fund to the
17 Utilities Commission the sum of ten thousand dollars (\$10,000) in nonrecurring funds for the
18 2026-2027 fiscal year to be used for purposes consistent with this act.

19 **SECTION 5.** Effective Date. – Section 4 of this act becomes effective July 1, 2026.
20 The remainder of this act is effective when it becomes law.