



North Carolina

Utilities Commission

Overview of the North Carolina Utilities Commission

Presentation to the House Energy
and Public Utilities Committee

March 7, 2023



North Carolina

Utilities Commission

NORTH CAROLINA UTILITIES COMMISSION

Dobbs Building, 430 North Salisbury Street 27603-5918

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Commissioners

Charlotte A. Mitchell, Chair

ToNola D. Brown-Bland

Daniel G. Clodfelter

Kimberly W. Duffley

Jeffrey A. Hughes

Floyd B. McKissick, Jr.

Karen M. Kemerait



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Organization of the Commission

- Administrative agency of General Assembly (*N.C. Gen. Stat. § 62-23*); legislative oversight by House Committee on Energy and Public Utilities, Senate Committee on Commerce and Insurance, and Joint Legislative Commission on Governmental Operations
- Seven members: appointed by Governor, subject to confirmation by General Assembly, serving staggered six-year terms (*N.C. Gen. Stat. § 62-10*)
- Chairman: appointed by Governor, four-year term, organizes Commission's work (*N.C. Gen. Stat. § 62-12, 13*)



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Organization of the Commission (continued)

- Commissioners are subject to Code of Judicial Conduct and prohibited by law from engaging in any other employment, business, or profession while in office (*N.C. Gen. Stat. § 62-10[i]*)
- Commission employs up to 65 people, current staffing is 57, organized among four divisions: (1) Legal, (2) Operations, (3) Fiscal Management, (4) Clerk's Office, and (5) IT Services
- Certified FY 2022-2023 annual budget: \$ 10,872,129
 - Fee-funded budget: \$ 9,697,434
 - Gas Pipeline Safety budget: \$ 1,174,695
- NCUC is a fee-funded agency, supported by regulatory fee percentage applied to the jurisdictional revenues of public utilities (*N.C. Gen. Stat. § 62-302*)
- The Public Staff maintains its own budget which is separate from the Commission's budget, but it is funded by the same regulatory fee



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History of the Commission

- Oldest regulatory body in state government: evolved from Railroad Commission (1891) to Corporation Commission (1899) to Utilities Commission (1933)
- History of significant legislative grants of, or limitations on, regulatory authority:
 - Railroad – 1891
 - Telephone – 1893
 - Electric, Gas, & Water – 1913
 - Wastewater – 1917
 - Housing – 1935
 - Hospitals – 1943
 - Buses/Brokers – 1949
 - Motor Carriers & Ferries – 1963
 - Electric Generation – 1965
 - Electric Membership Cooperatives – 1965
 - Payphone Service Providers – 1985
 - Long Distance Telephone Competition – 1985
 - Telephone Shared Tenant Service – 1987
 - Local Telephone Competition – 1995
 - Motor Carriers of Property, except Household Goods, Deregulation – 1995
 - Railroad Transferred to Dept. of Transportation – 1996
 - Water/Wastewater Resale – 1996
 - Charter Bus Deregulation – 1998
 - Long Distance Telephone Rate Deregulation – 2003
 - Electric Resale – 2011
 - Natural Gas Resale – 2017
 - Leasing of Solar Energy Facilities – 2017
 - Performance-based regulation for Electric Public Utilities – 2021
 - Multi-Year Water and Sewer Rate-Making - 2021
 - Carbon Plan - 2021



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Powers and Duties of the Commission

- Purpose: to provide fair regulation of public utilities in the interest of the public
- The Regulatory Compact: utilities exchange benefit of monopoly franchised service territory for obligation to provide adequate service at reasonable rates
 - Risk to consumers posed by the monopoly structure may be mitigated by regulation, i.e., regulation takes the place of competition
- Nature of work of NCUC, generally: oversee costs incurred by utilities to provide service, authorize recovery of costs prudently incurred, ensure adequate service at reasonable rates
- Obligation of NCUC, generally: balance interests of the consumer and a financially sound utility
- Evolution in state and federal law and regulation, as well as the impact of industry trends, has resulted in increased complexity for regulated and regulators



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Powers and Duties of the Commission (continued)

- The Commission is a creature of statute and exercises only that authority delegated to it by the General Assembly
- The Commission acts in quasi-judicial and quasi-legislative capacities
 - Formal evidentiary proceedings
 - Rulemakings
 - Investigations
- The Commission's orders endeavor to implement the law consistent with the intent of the General Assembly



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Powers and Duties of the Commission (continued)

- Exercises functions judicial in nature (quasi-judicial)
 - Conducts hearings, deliberates, issues orders
 - Compiles record of evidence, including testimony under oath
 - Powers and duties of court of general jurisdiction
- Exercises functions legislative in nature (quasi-legislative) and administrative in nature
- Appeals from general rate case decisions to NC Supreme Court; all others to NC Court of Appeals (absent federal jurisdiction)
 - Appellate standard of review is statutorily prescribed



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Regulated Entities

(As of 12/31/2021)

	<u>QTY</u>
BUS / BROKER	9
ELECTRIC	5
ELECTRIC COOPERATIVES	31
ELECTRIC MERCHANT PLANTS	14
ELECTRIC RESELLER	60
ELECTRIC GENERATOR LESSOR	9
ELECTRIC SUPPLERS	1
FERRIES	8
MOTOR CARRIERS OF HOUSEHOLD GOODS	345
NATURAL GAS:	
– LOCAL DISTRIBUTION COMPANIES	4
– INTRASTATE PIPELINE	1
– GAS RESELLERS	1
– PROPANE COMPANY	1
SMALL POWER PRODUCERS	1,121
TELEPHONE:	
– COMPETING LOCAL PROVIDERS	163
– INCUMBENT LOCAL EXCHANGE COMPANIES	16
– LONG DISTANCE CARRIERS	95
– PAYPHONE SERVICE PROVIDERS	29
– SHARED TENANT SERVICES	5
WATER / WASTEWATER	92
WATER / WASTEWATER RESELLERS	1,810
WATER RESELLER NON-CONTIGUOUS	<u>77</u>
TOTAL	3,897



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Regulated Entities (continued)

- FY 2021-2022 Jurisdictional Revenues: \$12.14 billion
 - Electric: \$9.053 billion
 - Natural Gas: \$1.894 billion
 - Telecommunications: \$772.1 million
 - Includes Local and Long-Distance Telephone Companies, Payphone Service Providers, and Shared Tenant Service Providers
 - Water and Wastewater: \$292.7 million
 - Includes Water/Wastewater Re-sellers
 - Transportation: \$127.4 million
 - Includes Ferries and Household Goods (HHG) Movers



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Regulated Entities (continued)

(For the 12-Month Period Ending 9/30/2022)

	<u>Filings</u>	<u>Orders</u>
• Electric	3,075	753
• Natural Gas	1,078	169
• Telephone	367	94
• Water/Wastewater	6,145	2,193
• Household Goods Carriers	660	152
• Small Power Producers	16,934	128
• Other (Bus/Broker, Electric Merchant Plant, EMC, Ferry, Payphone Provider, Renewable Energy Facilities, & Misc.)	<u>1,278</u>	<u>157</u>
TOTAL	29,857	3,646



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Types of Proceedings

- Certificates
 - Public Convenience and Necessity, 62-110.1
 - Environmental Compatibility and Public Convenience and Necessity, 62-101
- General rate cases
 - Traditional, 62-133 and 134
 - Multi-year, 62-133.1B (water/wastewater)
 - Performance-based regulation, 62-133.16
- Rate adjustment mechanisms (riders)
 - Fuel, 62-133.2
 - DSM/EE, 62-133.9
 - Acquisition of municipal power agency ownership interest in generating facilities, 62-133.14
 - Natural gas cost, 62-133.4
 - Water system and sewer system improvement, 62-133.12
 - Others
- Fair value determination
 - Water and wastewater, 62-133.1A



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Types of Proceedings (continued)

- Planning
 - IRP, 62-110.1
 - Carbon Plan, H951
- Competitive Procurement of Renewable Resources, 62-110.8
- Interconnection Procedures
- Complaints, 62-73
- Special Financing (securitization)
 - Storm Recovery Costs, 62-172
 - Early Retirement of Subcritical Coal-fired Electric Generating Facilities, H951
- Mergers, acquisitions, transfers, 62-111
- Rulemakings



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Types of Proceedings (continued)

- For the 12-Month Period Ending 12/31/2022:
 - 15,845 formal proceedings
 - 77 hearings in contested cases
 - 29,711 filings in Chief Clerk's Office
 - 3,566 orders issued
 - 739 open dockets as of 12/31/2022



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Issues by Industry

Electric

- External risks: cybersecurity, physical security, storm damage
- Industry trends: environmental regulation, fuel supply constraints, integration of renewable resources
- Regulatory developments:
 - Performance-based regulation/multi-year rate case authority
 - DEP and DEC have cases on-going
 - Carbon reduction planning
 - Order Adopting Initial Carbon Plan issued on December 30, 2022
 - Carbon Plan will be reviewed every two years
 - Currently considering plan for 2023 solar procurement
 - Next Carbon Plan/Integrated Resource Plan to be filed September 1, 2023



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Issues by Industry (continued)

Water and Wastewater

- Multi-year rate cases
- Aging infrastructure, secondary water quality concerns, emerging contaminants

Natural Gas

- Commodity price volatility, interdependence of gas and electric systems, transportation constraints, supply constraints, renewable natural gas

Telecommunications

- Transition to all-IP network, broadband deployment, FCC's Rural Digital Opportunity Fund (RDOF)

Transportation

- Fitness of company principals, regulatory compliance, unauthorized movers and related complaints



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Initial Carbon Plan

Solar

- 2023-2024 - 2,350 MW solar generation to be procured competitively

Storage

- 2023-2024 - 1,000 MW standalone battery storage and 600 MW of battery storage + solar

Coal

- Accepts retirement dates for remaining 9,000+ MW coal-fired generating units by 2035

Existing Nuclear

- Directs seek extension of existing operating licenses

Natural Gas

- Authorizes planning for additional natural gas-fired generating capacity, expresses concerns about transportation capacity

Load reduction

- Approves planning target of 1% of eligible load reduction through DSM/EE, sets aspirational goal of 1.5%

Transmission

- Authorizes development of certain transmission facilities to interconnect new generating resources

Long Lead-Time Resources

- Pumped storage hydro, new nuclear facilities, off-shore wind



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Winter Storm Elliott

Impacts to Electric Utilities

- Forecasted load diverged from actual load
 - Lack of prior history for an event quite like this did not allow proper “training” of forecasting tool
- Generating Units Impacted
- Imports from neighboring BAs were curtailed
- DEC and DEP initiated General Load Reduction & System Restoration Plans, including reducing load on the systems, maintain system integrity and mitigate risk to eastern interconnection

Impacts to Natural Gas LDCs

- Pressure variations at delivery points on interstate pipeline



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