



G.S. 62-110.9 (Requirements concerning reductions in emissions of carbon dioxide from electric public utilities).

2023-2024 General Assembly

Commission: Joint Legislative Commission on Energy Policy **Date:** March 26, 2024

Analysis of: G.S. 62-110.9

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OVERVIEW: *In 2021, the General Assembly enacted legislation to require the Utilities Commission (Commission) to take all reasonable steps to achieve a 70% reduction in emissions of carbon dioxide from electric public utilities from 2005 levels by the year 2030, and carbon neutrality by the year 2050 (see [G.S. 62-110.9](#) (Carbon Plan statute)).*

This act became effective October 13, 2021.

ANALYSIS OF LEGISLATION:

The Carbon Plan statute requires the Commission to take all reasonable steps to achieve a 70% reduction in emissions of carbon dioxide (CO₂) emitted in the State from electric generating facilities owned or operated by electric public utilities¹ from 2005 levels by the year 2030, and carbon neutrality² by the year 2050. In achieving the authorized carbon reduction goals, the Utilities Commission must:

- Develop a plan (the Carbon Plan), no later than December 31, 2022, with the electric public utilities, including stakeholder input, for the utilities to achieve the authorized reduction goals, which must be reviewed every two years thereafter and can be adjusted as necessary in the determination of the Commission and the electric public utilities.
- Comply with current law and practice with respect to the least cost planning for generation, as required by statute, in achieving the authorized carbon reduction goals and determining generation and resource mix for the future. Any new generation facilities or other resources selected by the Commission in order to achieve the authorized reduction goals for electric public utilities must be owned and recovered on a cost of service basis by the applicable electric public utility except that:
 - Existing law must apply with respect to energy efficiency measures and demand-side management.

¹ "Electric public utility" as defined in the act 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.

² "Carbon neutrality" as defined in the statute 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.

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- To the extent that new solar generation is selected by the Commission, in adherence with least cost requirements, the solar generation selected must be subject to the following: (i) 45% of the total megawatts alternating current (MW AC) of any solar energy facilities established pursuant to this section must be supplied through the execution of power purchase agreements with third parties pursuant to which the electric public utility purchases solar energy, capacity, and environmental and renewable attributes from solar energy facilities owned and operated by third parties that are 80 MW AC or less that commit to allow the procuring electric public utility rights to dispatch, operate, and control the solicited solar energy facilities in the same manner as the utility's own generating resources and (ii) 55% of the total MW AC of any solar energy facilities established pursuant to this section must be supplied from solar energy facilities that are utility-built or purchased by the utility from third parties and owned and operated and recovered on a cost of service basis by the soliciting electric public utility. These ownership requirements are applicable to solar energy facilities (i) paired with energy storage and (ii) procured in connection with any voluntary customer program.
- Ensure any generation and resource changes maintain or improve upon the adequacy and reliability of the existing grid.
- Retain discretion to determine optimal timing and generation and resource-mix to achieve the least cost path to compliance with the authorized carbon reduction goals, including discretion in achieving the authorized carbon reduction goals by the dates specified in order to allow for implementation of solutions that would have a more significant and material impact on carbon reduction; provided, however, the Commission cannot exceed the dates specified to achieve the authorized carbon reduction goals by more than two years, except in the event the Commission authorizes construction of a nuclear facility or wind energy facility that would require additional time for completion due to technical, legal, logistical, or other factors beyond the control of the electric public utility, or in the event necessary to maintain the adequacy and reliability of the existing grid. In making such determinations, the Utilities Commission must receive and consider stakeholder input.