



# SENATE BILL 261: Energy Security and Affordability Act.

2025-2026 General Assembly

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<b>Committee:</b>	Senate Agriculture, Energy, and Environment	<b>Date:</b>	March 11, 2025
<b>Introduced by:</b>	Sens. Berger, P. Newton, Barnes	<b>Prepared by:</b>	Jennifer McGinnis
<b>Analysis of:</b>	Filed Edition		Committee Counsel

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**OVERVIEW:** *Senate Bill 261 would: (i) eliminate the interim goal for a seventy percent (70%) reduction in carbon dioxide emissions in the State from electric generating facilities owned or operated by certain electric public utilities from 2005 levels by the year 2030; and (ii) allow an increase in the base rates of an electric public utility for costs of construction work in progress for baseload electric generating facilities outside of a general rate case, if the Utilities Commission determines there is an overall cost savings for customers over the life of the generating facility and the facility has been subject to an annual ongoing review process through which the Commission has determined that the expenditures were reasonably and prudently incurred.*

## CURRENT LAW/BACKGROUND:

### Section 1:

In 2021, the General Assembly enacted legislation to require the Utilities Commission to take all reasonable steps to achieve a 70% reduction in carbon dioxide emissions in the State from electric generating facilities owned or operated by certain electric public utilities<sup>1</sup> from 2005 levels by the year 2030 and carbon neutrality by the year 2050. The Commission was further directed to develop a plan (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, with a required review every two years. The legislation requires the Commission to:

- Comply with current law and practice with respect to the least cost planning for generation in achieving the authorized carbon reduction goals and determining generation and resource mix for the future.
- Ensure any generation and resource changes maintain or improve upon the adequacy and reliability of the existing grid.

The legislation further provides that, subject to certain limitations, the Commission retains 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.

On [November 1, 2024, the Commission issued an order](#) approving a series of actions for the electric public utility to take in the near term with respect to the Carbon Plan, which included:

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<sup>1</sup> 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.

Kara McCraw  
Director



Legislative Analysis  
Division  
919-733-2578

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- Retiring the remaining coal-fired generating units, more than 8,000 MW, by 2036.
- Conducting two competitive solar procurements between 2025-2026, targeting 3,460 MW of new controllable solar generation to be placed into service by 2031.
- Procuring 1,100 MW of battery storage, including 475 MW of standalone storage and at least 625 MW of battery energy storage paired with solar generation to be placed into service by 2031.
- Procuring 1,200 MW of onshore wind to achieve commercial operation by 2033, including at least 300 MW targeted for commercial operation by 2031.
- Pursuing the development of 900 MW of new natural gas-fired combustion turbine generation to achieve commercial operation by 2030.
- Pursuing the development of 2,720 MW of new natural gas-fired combined cycle generation to achieve commercial operation by 2031.
- Working toward the construction of 1,834 MW of pumped storage hydropower at the Bad Creek Hydroelectric Station in Oconee County, South Carolina to be placed into service by 2034.
- Conducting early development activities associated with 300 MW of advanced nuclear generation to be placed into service by 2034 and an additional 300 MW of advanced nuclear generation to be placed into service by 2035.
- Continuing to work toward the extension of the operating licenses for the utility's existing nuclear fleet.
- Conducting an advanced request for information (ARFI) process to gather information regarding the development of up to 2,400 MW of offshore wind off the coast of North Carolina to achieve commercial operation by 2035 and taking additional steps subsequent to the ARFI.
- Continuing to plan for 1% load reduction through demand-side management and energy efficiency measures.
- Working with large customers to develop programs aimed at managing and controlling large customer load for the benefit of all customers.

## **Section 2:**

Under current law, an electric public utility must recover the reasonable and prudent costs it has incurred in constructing a generating facility through rates in a general rate case.

During each year of construction, the utility must submit a progress report and any revision in the cost estimate for the construction approved at the time the Commission issued the Certificate of Public Convenience and Necessity (CPCN) for the generating facility. Upon the request of the utility or upon its own motion, the Commission may conduct an ongoing review of construction of the facility as the construction proceeds.

If construction of a facility is cancelled, and the construction of the facility has been subject to ongoing review, the utility can recover through rates in a general rate case the costs of construction approved by the Commission during the ongoing review that were actually incurred prior to cancellation, amortized over a reasonable time as determined by the Commission.

The utility has the burden of proof to demonstrate that a material item of cost was just and reasonable and prudently incurred.

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## **BILL ANALYSIS:**

### **Section 1 would:**

Eliminate the interim goal for a 70% reduction in carbon dioxide emissions in the State from electric generating facilities owned or operated by certain electric public utilities from 2005 levels by the year 2030.

### **Section 2 would:**

Allow an increase in the base rates of an electric public utility for costs of construction work in progress for baseload electric generating facilities outside of a general rate case, if the Utilities Commission determines there is an overall cost savings for customers over the life of the generating facility and the facility has been subject to an annual ongoing review process through which the Commission has determined that the expenditures were reasonably and prudently incurred.

### **Section 3 would:**

Specify that if any provision of the bill or the application thereof is held invalid, that will not affect the remaining provisions of the bill.

**EFFECTIVE DATE:** This bill would be effective when it becomes law, and Section 2 (governing cost recovery for construction work in progress) applies to petitions for an increase to rates based on construction work in progress or project development costs filed on or after that date.