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GENERAL ASSEMBLY OF NORTH CAROLINA
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S **D**

SENATE BILL DRS45480-NPa-27

Short Title:	My Power Bill Is Too High.	(Public)
Sponsors:	Senators Murdock and Salvador (Primary Sponsors).	
Referred to:		

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

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

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

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

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

Whereas, the General Assembly finds that stronger performance incentives and greater regulatory accountability are necessary to ensure that utility actions align with consumer interests; Now, therefore,

The General Assembly of North Carolina enacts:

REPEAL OF MULTIYEAR RATE PLANS

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

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

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

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

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

…

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

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

…

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

…

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

…

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

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

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

~~projected incremental Commission-authorized capital investments that will be used and useful during the rate year and associated expenses, net of operating benefits, including operation and maintenance savings, and depreciation of rate base associated with the capital investments, that are incurred or realized during each rate year of the MYRP period; provided that the amount of increase in the second rate year under the MYRP shall not exceed four percent (4%) of the electric public utility's North Carolina retail jurisdictional 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. The amount of increase for the third rate year under the MYRP shall not exceed four percent (4%) of the electric public utility's North Carolina retail jurisdictional 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 placed in service during the first rate year. The revenue requirements associated with any single new generation plant placed in service during the MYRP for which the total plant in service balance exceeds five hundred million dollars ($500,000,000) shall not be included in a MYRP, except that combustion turbine generating units which are not part of a combined cycle generating unit may be included in the MYRP subject to the four percent (4%) limit identified in this subdivision. In the alternative, the utility may request and the Commission may grant, if it deems appropriate, permission to establish a regulatory asset and defer to such regulatory all or a portion of the asset incremental costs related to such electric generation investments to be considered for recovery in a future rate proceeding. In setting the electric public utility's authorized rate of return on equity for an MYRP period, the Commission shall consider any increased or decreased risk to either the electric public utility or its ratepayers that may result from having an approved MYRP.~~

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

…

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

~~1. For each quarter of a MYRP, the electric public utility shall report regarding the status of the approved MYRP projects in the manner directed by the Commission, including reporting on any project that is canceled, along with a detailed explanation regarding the reasons for such cancellation and the replacement capital spending project, if any. The Commission may, upon its own motion or petition by the Public Staff, open a proceeding to examine any potentially unreasonable or imprudent cancellations of approved capital spending projects and may initiate a proceeding to adjust base rates as necessary 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) An assessment of whether any current performance incentive mechanisms materially influence utility investment decisions.
(2) A comparison of performance incentive earnings to returns on capital investments.
(3) An evaluation of the impact of incentive structures that are capped at or near one percent (1%) of the electric public utility's total annual revenue requirement.
(4) A comparison of different options to increase or remove caps on performance incentives.
(5) Any recommendations to better align utility earnings with customer affordability, reduction in system costs, and avoidance of unnecessary capital investments.

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

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

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