

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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HOUSE BILL 611

Short Title: Study Electric Utilities' Resiliency. (Public)

Sponsors: Representatives Strickland, Goodwin, K. Hall, and Turner (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 21, 2021

A BILL TO BE ENTITLED
AN ACT TO DIRECT THE NORTH CAROLINA UTILITIES COMMISSION TO CONDUCT
A STUDY OF NORTH CAROLINA WHOLESALE ELECTRICITY MARKET REFORMS
AND ISSUE A REPORT TO THE GENERAL ASSEMBLY REGARDING ANY
PROPOSED REFORMS AND PUBLIC BENEFITS ASSOCIATED THEREWITH.

Whereas, the weather events of February 2021 in Texas led to widespread power outages, death, and property damage, North Carolina must be prepared for a similar weather event; and

Whereas, much of the electric service provided in North Carolina is currently provided by vertically integrated providers of electric distribution and transmission services; and

Whereas, the State has adopted legislation, including Session Law 2007-397 and Session Law 2017-192, to diversify the resources used to reliably meet the energy needs of consumers and provide economic benefits to the State; and

Whereas, North Carolina seeks to: (i) expand its development of new, low-cost electricity resources in the State; (ii) encourage additional private investment in these resources as well as ancillary businesses; (iii) create new tax bases and economic opportunities; and (iv) accelerate the deployment of zero emission resources; and

Whereas, stakeholders that participated in the North Carolina Energy Regulatory Process identified common outcomes to reduce greenhouse gas emissions, improve integration of distributed energy resources, improve customer choice of energy sources, provide energy affordability and bill stability, and align regulatory incentives with cost control and policy goals; and

Whereas, electricity sector regulatory framework changes to the wholesale electricity market may require changes to State law as well as federal authorization; and

Whereas, the South Carolina legislature authorized a study to be completed on November 1, 2021, that examines the benefits of various restructuring options for electricity markets associated with electricity generators, transmitters, and distributors in South Carolina; and

Whereas, regional and interstate arrangements may require changes to laws in states other than North Carolina; Now, therefore,
The General Assembly of North Carolina enacts:

SECTION 1.(a) The North Carolina Utilities Commission (Commission) shall conduct a study to evaluate reform of the regulatory wholesale electricity market in North Carolina. In the conduct of this study, the Commission shall:

- (1) Evaluate proposed market structures, including all of the following:



- 1 a. Establishing a regional transmission organization (RTO) within the
2 geographical boundaries of North Carolina and South Carolina or a
3 larger area such as the southeast United States.
- 4 b. Establishing an energy imbalance market within the geographical
5 boundaries of North Carolina and South Carolina or a larger area such
6 as the southeast United States.
- 7 c. Participation in the Southeastern Energy Exchange Market.
- 8 d. In addition, the Commission may examine any other market reforms
9 that the Commission determines appropriate, including (i) joining an
10 existing RTO, (ii) developing joint dispatch agreements beyond the
11 current Duke Energy Carolinas and Duke Energy Progress agreement
12 to include additional utilities in neighboring states and regionally, and
13 (iii) developing a customer choice program that allows large
14 customers, either at a single site or as an aggregate of multiple sites, to
15 choose an independent electricity provider over their existing
16 provider.
- 17 (2) Examine all of the following matters:
- 18 a. The cost, benefits, and risks to State and local government, utilities,
19 independent power producers, businesses, and customers of all classes
20 regarding the following aspects of the State's current electricity system
21 and potential market reforms on (i) electricity generation and capacity
22 adequacy and diversity, (ii) transmission systems, (iii) customer
23 service and rates, (iv) environmental quality, (v) economic
24 opportunity, and (vi) State regulation of electricity systems.
- 25 b. The legal and procedural requirements in North Carolina, at the
26 Federal Energy Regulatory Commission, or in other states associated
27 with adoption of any recommended electricity market reform
28 measures, including identification of existing laws, regulations, and
29 policies that may need to be amended in order to implement the
30 electricity market reform measures.
- 31 c. The impact to existing interstate and interregional arrangements from
32 electricity market reform measures.
- 33 d. Existing nuclear power plant units, in operation and located in this
34 State or in the balancing authority of electrical utilities or public power
35 agencies operating in this State, which provide an emissions-free
36 source of power while also providing significant employment and
37 economic benefits. Direction to the Commission to examine this
38 matter shall not be construed as an indication of legislative intent to
39 force divestiture of ownership or cessation of the operation of these
40 nuclear power plants.
- 41 e. The potential impacts, including costs and benefits, of electricity
42 market reform measures on disadvantaged or vulnerable populations
43 and/or communities.
- 44 (3) Consider how to maintain or enhance the following values under the proposed
45 wholesale market reform structures: (i) stakeholder input into electricity
46 regulatory and policy development processes and (ii) social equity in
47 providing affordable electricity to all communities and customer classes.

48 **SECTION 1.(b)** The Commission shall initiate the study required by this section no
49 later than 30 days after the date this act becomes law and, by that date, shall establish an advisory
50 board for the conduct of the study in order to ensure the broad concerns of North Carolina are
51 considered. The advisory board, at a minimum, shall include all of the following:

- 1 (1) The State Energy Director of the Department of Environmental Quality.
- 2 (2) The Executive Director of the North Carolina Public Staff, or the Executive
- 3 Director's designee.
- 4 (3) The Attorney General, or the Attorney General's designee.
- 5 (4) The North Carolina President of Duke Energy, or the President's designee.
- 6 (5) The North Carolina President of Dominion Energy, or the President's
- 7 designee.
- 8 (6) Executive leadership from municipal and cooperative utilities, or their
- 9 designees.
- 10 (7) Executive Directors of the North Carolina Clean Energy Business Alliance
- 11 and the North Carolina Sustainable Energy Association, or their designees.
- 12 (8) A representative set of stakeholders from the North Carolina Energy
- 13 Regulatory Process selected by the Commission, including all of the
- 14 following:
 - 15 a. Two representatives of residential consumers of electricity.
 - 16 b. Two representatives of commercial consumers of electricity.
 - 17 c. Two representatives of industrial consumers of electricity.
 - 18 d. Two representatives of power producers.
 - 19 e. Two representatives with subject matter expertise from the academic
 - 20 community.
 - 21 f. Two representatives of the environmental advocacy community.
 - 22 g. Two representatives of the social equity and justice community.

23 **SECTION 1.(c)** The Commission shall report its findings and recommendations
24 resulting from the study, including any proposals for legislative action, on or before the
25 convening of the 2023 Regular Session of the General Assembly. This deadline may be extended
26 by up to one year as the Commission deems necessary in order to adequately evaluate all matters
27 required by the study. At a minimum, the Commission's recommendations shall address whether
28 legislation should be enacted to reform North Carolina's wholesale electricity marketplace, and
29 if so, the Commission shall identify the specific manner in which wholesale reform should be
30 implemented. If the Commission recommends legislative action to reform the State's wholesale
31 electricity marketplace, the report shall (i) include draft legislation, (ii) identify applicable
32 requirements under statute and rule, and (iii) include a proposed schedule that should be
33 established so that the recommended wholesale market reform will result in net benefits without
34 undue risk for the State, utilities, businesses, and residents.

35 **SECTION 1.(d)** For purposes of this section, all of the following definitions apply:

- 36 (1) "Regional transmission organization" or "RTO" means an entity established
37 for the purpose of promoting the efficiency and reliability in the operation and
38 planning of the electric transmission grid and ensuring nondiscrimination in
39 the provision of electric transmission services, which meets the minimum
40 criteria established by the Federal Energy Regulatory Commission under 18
41 C.F.R. § 35.34.
- 42 (2) "Energy imbalance market" means a voluntary market for dispatching
43 real-time energy across utility service territories in which each participating
44 utility retains ownership and control of its transmission assets but opts to bid
45 generation into a centralized dispatch authority.
- 46 (3) "Southeastern Energy Exchange Market" means a proposed 15-minute
47 automated energy exchange market between balancing authorities in the
48 southeastern United States involving over 15 entities.
- 49 (4) "Joint dispatch agreement" means a type of arrangement where participating
50 utilities agree to jointly dispatch generation resources to meet load

1 requirements across their footprints, and each participating utility retains
2 ownership and control of its transmission assets.
3 **SECTION 1.(e)** There is appropriated from the General Fund to the Utilities
4 Commission the sum of five hundred thousand dollars (\$500,000) in nonrecurring funds for the
5 2021-2022 fiscal year to engage an independent consulting firm with experience and expertise in
6 wholesale electricity markets to assist the Commission with the study required by this section.
7 **SECTION 2.** This act is effective when it becomes law.