Insights: Publications

5 Key Takeaways | North Carolina Energy Regulatory & Policy Developments

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Kilpatrick's **Ben Smith** recently joined a panel of fellow thought leaders to discuss "North Carolina Energy Regulatory & Policy Developments Super Session" at the 2026 Appalachian Clean Energy Regulatory and Policy CLE Workshop. The discussion provided attorneys, policy professionals, and energy practitioners with an overview of the ever-evolving legal, regulatory, and policy developments impacting North Carolina's energy landscape.

Ben's presentation focused on how large data centers fit into the evolving regulatory scheme in North Carolina (and beyond). Terms between customers and electric utilities – commonly called electric tariffs – provide how the utility customer pays for its electric service. However, large new data centers coming to the state have driven up projections of electric demand (also called "load") and triggered the need for considerable investments in the grid at the generation, transmission, and distribution levels. Assignments of these costs between customers, including the new data center customers, is currently under review by state commissions across the U.S., including North Carolina.

1. Large load tariffs are now a necessity. Modern tech such as AI, which is driving roughly 40% of data center demand growth, require the need for large load data center development. Duke Energy's North Carolina forecasts now include projects of 150 to 500 MW, with some approaching 1 GW. Loads that size create real risk that the costs of new infrastructure end up on other ratepayers.

2. In North Carolina, the first fight is over who gets covered. There are several North Carolina proposals being considered by the North Carolina Utilities Commission (the "Commission"). Most proposals consider a 50 MW (and above) as the low end of a large load customer who will trigger a new tariff and cost responsibilities. The Commission's own proposal would apply only to data centers; other proposals reach any customer type. The proposals also split on structure. Some create a mandatory standalone schedule, and others add an overlay to existing rates.

3. Two terms will decide who is affected and how: curtailment and grandfathering. Curtailment ranges from mandatory and uncompensated to limited reliability-only interruptions. Grandfathering cutoffs vary from proposal to proposal, and one proposal offers none at all. For any client, the date its agreement was signed matters.

4. Other states have already acted, and their message is that large loads pay their own way. Virginia, Ohio, Minnesota, and others use size thresholds, minimum demand charges, long contracts, and exit fees. Minnesota goes further and bars by statute any shifting of data center costs to other customers. Texas requires large loads to curtail when its grid operators directs.

5. Every proposal shifts financial risk to the large load customer, but they differ on how much. The terms vary widely across the proposals:

• Minimum bills: 75% to 85% of contract demand
• Contract terms: 10 to 20 or more years
• Exit fees: 15% to 100% of remaining minimum bills
• Up-front costs: proposals range from no direct cost assignment to deposits covering both network and generation costs

There are numerous other considerations regarding the respective large load tariff proposals, but the takeaways above represent some of the most hotly contested issues. A proposed settlement is pending, but the Commission has not approved it. A decision is expected in November.

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