

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 673
Commerce Committee Substitute Adopted 4/23/15
PROPOSED HOUSE COMMITTEE SUBSTITUTE S673-PCS45549-TG-72

Short Title: Natural Gas Econ. Dev. Infrastructure.

(Public)

Sponsors:

Referred to:

March 30, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE RECOVERY OF CAPITAL-RELATED COSTS INCURRED BY A
3 NATURAL GAS UTILITY FOR CONSTRUCTING NATURAL GAS INFRASTRUCTURE
4 FOR A LARGE MANUFACTURING EMPLOYER.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 7 of Chapter 62 of the General Statutes is amended by adding a
7 new section to read:

8 "**§ 62-133.15. Cost recovery for natural gas economic development infrastructure.**

9 (a) Purpose. – The purpose of this section is to prescribe a methodology for cost recovery
10 by a natural gas local distribution company that constructs natural gas economic development
11 infrastructure to serve a project the Department of Commerce determines is an eligible project
12 under G.S. 143B-437.021. The Commission shall adopt rules to implement this section.

13 (b) Eligibility. – Cost recovery under this section is limited to natural gas economic
14 development infrastructure the Commission determines satisfies all of the following conditions:

15 (1) The project will be located in an area where adequate natural gas infrastructure
16 for the eligible project is not economically feasible.

17 (2) Either the developer, prospective customer, or the occupant of the eligible
18 project provides, prior to initiation of construction of the natural gas economic
19 development infrastructure, a binding commitment in the form of a commercial
20 contract or other form acceptable to the Commission to the natural gas local
21 distribution company regarding service needed for a period of at least 10 years
22 from the date the gas is made available.

23 (3) The projected margin revenues not recoverable under G.S. 62-133.4 from the
24 eligible project will not be sufficient to cover the cost of the natural gas
25 infrastructure associated with the project.

26 (c) Economic Feasibility. – The Commission shall permit a natural gas local distribution
27 company to recover reasonable and prudent natural gas economic development infrastructure costs
28 only to the extent necessary to make the construction of the infrastructure economically feasible,
29 as determined by the Commission. In determining economic feasibility, the Commission shall
30 employ the net present value method of analysis. Only natural gas economic development
31 infrastructure with a negative net present value shall be determined to be economically infeasible.

32 (d) Costs Recoverable. – Eligible economic development infrastructure development costs
33 are the reasonable and prudent costs determined by the Commission to be both directly related to
34 the construction of natural gas infrastructure for an eligible project and economically infeasible.
35 The costs may include any of the following:



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- 1 (1) Planning costs.
- 2 (2) Development costs.
- 3 (3) Construction costs and an allowance for funds used during construction and a
4 return on investment once the project is completed, calculated using the pretax
5 overall rate of return approved by the Commission in the company's most
6 recent general rate case.
- 7 (4) A revenue retention factor.
- 8 (5) Depreciation.
- 9 (6) Property taxes.

10 (e) Rate Adjustment Surcharge Mechanism. – The Commission shall permit recovery of
11 eligible economic development infrastructure costs in a rate adjustment surcharge mechanism. The
12 mechanism shall allow for recovery on an annual or semiannual basis, as determined by the
13 Commission, subject to audit and reconciliation procedures. Any rate adjustment surcharge
14 mechanism adopted under this section shall terminate upon the earlier of the full recovery of the
15 costs allowed under subsection (d) of this section or the natural gas local distribution company's
16 next general rate case in which the eligible infrastructure development costs shall be included in
17 the natural gas distribution company's rate base. Nothing in this section precludes the natural gas
18 local distribution company from recovering eligible economic development infrastructure costs in
19 a general rate case.

20 (f) Limitations. – A natural gas local distribution company shall not invest more than
21 twenty-five million dollars (\$25,000,000) of eligible infrastructure development costs in any year.
22 The aggregate amount of eligible infrastructure development costs recovered under rate
23 adjustment surcharge mechanisms for all natural gas local distribution companies in the State
24 cannot exceed seventy-five million dollars (\$75,000,000). Cumulative rate adjustments allowed
25 under a rate adjustment surcharge mechanism approved by the Commission under this section
26 shall not exceed five percent (5%) of the total annual service margin revenues not recoverable
27 under G.S. 62-133.4 approved by the Commission in the natural gas local distribution company's
28 last general rate case."

29 **SECTION 2.** Article 10 of Chapter 143B of the General Statutes is amended by
30 adding a new section to read:

31 **"§ 143B-437.021. Natural gas economic development infrastructure.**

32 (a) Purpose and Definitions. – The purpose of this section is to provide eligibility criteria
33 for projects that require natural gas service infrastructure. Costs of natural gas service
34 infrastructure for projects the Department determines are eligible projects under this section may
35 be recovered by natural gas local distribution companies with approval of the North Carolina
36 Utilities Commission under G.S. 62-133.15. The definitions used in G.S. 143B-437.01 apply in
37 this section. In addition, as used in this section, the term "Department" means the Department of
38 Commerce.

39 (b) Eligibility. – An eligible project is an economic development project that the
40 Department determines satisfies all of the following conditions:

- 41 (1) The eligible project will provide opportunities for natural gas usage, jobs, and
42 other economic development benefits in addition to those provided by the
43 project.
- 44 (2) The Department certifies that the business has invested or intends to invest at
45 least two hundred million dollars (\$200,000,000) of private funds in
46 improvements to real property and additions to tangible personal property in the
47 project.
- 48 (3) The business employs or intends to employ at least 1,500 full-time employees
49 or equivalent full-time contract employees at the project at the time the
50 application is made and the business agrees to maintain at least 1,500 full-time
51 employees or equivalent full-time contract employees at the project.

1 (c) Wage Standard. – A project may be considered an eligible project under this section
2 only if the project is undertaken by a business that satisfies a wage standard at the project. A
3 business satisfies the wage standard if it pays an average weekly wage that is at least equal to one
4 hundred and ten percent (110%) of the average wage for all insured private employers in the
5 county. The Department of Commerce shall annually publish the wage standard for each county.
6 In making the wage calculation, the business shall include any jobs that were filled for at least
7 1,600 hours during the calendar year, regardless of whether the jobs are full-time positions or
8 equivalent full-time contract positions. Each year that a rate adjustment surcharge mechanism
9 under G.S. 62-133.15 is in effect, the business shall provide the Department a certification that the
10 business continues to satisfy the wage standard.

11 (d) Health Insurance. – A project may be considered an eligible project under this section
12 only if the project is undertaken by a business that makes available health insurance for all of the
13 full-time employees and equivalent full-time contract employees of the project with respect to
14 which the application is made. For the purposes of this subsection, a business makes available
15 health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage.

16 Each year that a rate adjustment surcharge mechanism under G.S. 62-133.15 is in effect, the
17 business shall provide the Department a certification that the business continues to make available
18 health insurance for all full-time employees of the project governed by the agreement.

19 (e) Safety and Health Programs. – A project may be considered an eligible project under
20 this section only if the project is undertaken by a business that has no citations under the
21 Occupational Safety and Health Act that have become a final order within the last three years for
22 willful serious violations or for failing to abate serious violations with respect to the location for
23 which the eligible project is located. For the purposes of this subsection, "serious violation" has
24 the same meaning as in G.S. 95-127.

25 (f) Environmental Impact. – A project may be considered an eligible project under this
26 section only if the project is undertaken by a business that certifies that, at the time of the
27 application, the business satisfies the environmental impact standard under G.S. 105-129.83.

28 (g) Limitations. – No more than three eligible projects are authorized under this section."

29 **SECTION 3.** This act is effective when it becomes law and expires July 1, 2021. The
30 expiration does not affect the validity of any rate adjustment surcharge mechanism imposed or
31 authorized under the provisions of this act prior to the effective date of the expiration.