

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 787
SENATE BILL 1320

AN ACT TO ESTABLISH REGULATORY FEES FOR PUBLIC UTILITIES TO DEFRAID THE COST TO THE UTILITIES COMMISSION AND THE PUBLIC STAFF OF REGULATING PUBLIC UTILITIES IN THE INTEREST OF THE PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. Article 14 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-302. Regulatory fee.

(a) Fee Imposed. It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public.

(b) Rate.

- (1) For the 1989-90 fiscal year, the regulatory fee shall be the greater of (i) twelve hundredths percent (0.12%) of each public utility's North Carolina jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents (\$6.25) each quarter.
- (2) For fiscal years beginning on or after July 1, 1990, the regulatory fee shall be the greater of (i) a percentage rate, established by the General Assembly, of each public utility's North Carolina jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents (\$6.25) each quarter.

When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose a percentage rate of the regulatory fee. For fiscal years beginning in an odd-numbered year, that proposed rate shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143-11. For fiscal years beginning in an even-numbered year, that proposed rate shall be included in a special budget message the Governor shall submit to the General Assembly. The General Assembly shall set the percentage rate of the regulatory fee by law.

The percentage rate may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of operating the Commission and the Public Staff for the upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Commission or the Public Staff or a possible unanticipated increase or decrease in North Carolina jurisdictional revenues.

- (3) If the Commission, the Public Staff, or both experience a revenue shortfall, the Commission shall implement a temporary regulatory fee surcharge to avert the deficiency that would otherwise occur. In no event may the total percentage rate of the regulatory fee plus any surcharge established by the Commission exceed twenty-five hundredths percent (0.25%).
- (4) As used in this section, the term 'North Carolina jurisdictional revenues' means all revenues derived or realized from intrastate tariffs, rates, and charges approved or allowed by the Commission or collected pursuant to Commission order or rule, but not including tap-on fees or any other form of contributions in aid of construction.

(c) When Due. The regulatory fee imposed under this section is due and payable to the Commission on or before the 15th day of the second month following the end of each quarter. Every public utility subject to the regulatory fee shall, on or before the date the fee is due for each quarter, prepare and render a report on a form prescribed by the Commission. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter and shall be accompanied by any supporting documentation that the Commission may by rule require. Receipts shall be reported on an accrual basis.

If a public utility's report for the first quarter of any fiscal year shows that application of the percentage rate would yield a quarterly fee of twenty-five dollars (\$25.00) or less, the public utility shall pay an estimated fee for the entire fiscal year in the amount of twenty-five dollars (\$25.00). If, after payment of the estimated fee, the public utility's subsequent returns show that application of the percentage rate would yield quarterly fees that total more than twenty-five dollars (\$25.00) for the entire fiscal year, the public utility shall pay the cumulative amount of the fee resulting from application of the percentage rate, to the extent it exceeds the amount of fees, other than any surcharge, previously paid.

(d) Use of Proceeds. A special fund in the office of State Treasurer, the Utilities Commission and Public Staff Fund, is created. The fees collected pursuant to this section and all other funds received by the Commission or the Public Staff shall be deposited in the Utilities Commission and Public Staff Fund. The Fund shall be placed in an interest bearing account and any interest or other income derived from the Fund

shall be credited to the Fund. Monies in the Fund shall only be spent pursuant to appropriation by the General Assembly.

The Utilities Commission and Public Staff Fund shall be subject to the provisions of the Executive Budget Act except that no unexpended surplus of the Fund shall revert to the General Fund. All funds credited to the Utilities Commission and Public Staff Fund shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public as provided by this Chapter."

Sec. 2. G.S. 62-301 is repealed.

Sec. 3. This act does not affect the rights or liabilities of the State, a public utility, or another person arising under a statute repealed by this act before its repeal; nor does it affect the right to any refund or credit of a fee that would otherwise have been available under the repealed statute before its repeal.

Sec. 4. Nothing herein contained shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

Sec. 5. This act shall become effective July 1, 1989, shall apply to public utility North Carolina jurisdictional revenues earned on or after that date, and shall expire June 30, 1991, and the proceeds and interest remaining in the Fund created by this act upon expiration of this act shall revert to the General Fund .

In the General Assembly read three times and ratified this the 12th day of August, 1989.