

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 742*

Short Title: Adjust the Utility Regulatory Fee. (Public)

Sponsors: Senator Brown (Primary Sponsor).

Referred to: Commerce.

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE UTILITY REGULATORY FEE TO REFLECT THE CHANGING REGULATORY CLIMATE FOR THE TELECOMMUNICATIONS INDUSTRY, AS RECOMMENDED BY THE LRC COMMITTEE ON THE ASSESSMENT OF REGULATED AND NON-REGULATED INDUSTRY UTILITY FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-302 reads as rewritten:

"§ 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.

It is also the policy of the State to provide limited oversight of certain electric membership corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as provided in this section.

(b) Public Utility Rate. –

(1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

(2) The—For noncompetitive jurisdictional revenues as defined in sub-subdivision (4)a. of this subsection, the public utility regulatory fee for each fiscal year shall be is the greater of (i) a percentage rate, established by the General Assembly, of each public utility's North—Carolina noncompetitive jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents (\$6.25) each quarter. For subsection (h) competitive jurisdictional revenues as defined in sub-subdivision (4)b. of this subsection, and subsection (m) competitive jurisdictional revenues as defined in sub-subdivision (4)c. of this subsection, the public utility regulatory fee for each fiscal year is a percentage rate established by the General Assembly of each public utility's competitive jurisdictional revenues for each quarter.



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1 When the Commission prepares its budget request for the upcoming
 2 fiscal year, the Commission shall propose a percentage rate of the public
 3 utility regulatory fee. For fiscal years beginning in an odd-numbered year,
 4 that proposed rate shall be included in the budget message the Governor
 5 submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years
 6 beginning in an even-numbered year, that proposed rate shall be included in
 7 a special budget message the Governor shall submit to the General
 8 Assembly. The General Assembly shall set the percentage rate of the public
 9 utility regulatory fee by law.

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

19 (3) If the Commission, the Public Staff, or both experience a revenue shortfall,
 20 the Commission shall implement a temporary public utility regulatory fee
 21 surcharge to avert the deficiency that would otherwise occur. In no event
 22 may the total percentage rate of the public utility regulatory fee plus any
 23 surcharge established by the Commission exceed twenty-five hundredths
 24 percent (0.25%).

25 (4) As used in this section, the term "~~North Carolina jurisdictional revenues~~"
 26 ~~means:~~section:

27 a. "Noncompetitive jurisdictional revenues" means ~~all~~^{all} revenues
 28 derived or realized from intrastate tariffs, rates, and charges approved
 29 or allowed by the Commission or collected pursuant to Commission
 30 order or rule, but not including tap-on fees or any other form of
 31 contributions in aid of construction.

32 b. "Subsection (h) competitive jurisdictional revenues" means ~~all~~^{all}
 33 revenues derived from retail services provided by local exchange
 34 companies and competing local providers that have elected to operate
 35 under no longer otherwise regulated by the operation of
 36 G.S. 62-133.5(h) or G.S. 62-133.5(h).G.S. 62-133.5(m) for a local
 37 exchange company or competing local provider that has elected to be
 38 regulated under those subsections.

39 c. "Subsection (m) competitive jurisdictional revenues" means all
 40 revenues derived from retail services provided by local exchange
 41 companies and competing local providers that have elected to operate
 42 under G.S. 62-133.5(m).

43 ...

44 (e) Recovery of fee increase. – If a utility's regulatory fee obligation is increased, the
 45 Commission shall either adjust the utility's rates to allow for the recovery of the increased fee
 46 obligation, or approve the utility's request for an accounting order allowing deferral of the
 47 increase in the fee obligation."

48 **SECTION 2.(a)** The percentage rate to be used in calculating the public utility
 49 regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h)
 50 competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each
 51 quarter that begins on or after July 1, 2015, is six hundredths of one percent (0.06%).

1 **SECTION 2.(b)** The percentage rate to be used in calculating the public utility
2 regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h)
3 competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each
4 quarter that begins on or after July 1, 2016, is four hundredths of one percent (0.04%).

5 **SECTION 3.(a)** The percentage rate to be used in calculating the public utility
6 regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m)
7 competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each
8 quarter that begins on or after July 1, 2015, is five hundredths of one percent (0.05%).

9 **SECTION 3.(b)** The percentage rate to be used in calculating the public utility
10 regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m)
11 competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each
12 quarter that begins on or after July 1, 2016, is two hundredths of one percent (0.02%).

13 **SECTION 4.** For the 2015-2016 and 2016-2017 fiscal years, the percentage rate to
14 be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public
15 utility's North Carolina noncompetitive jurisdictional revenues as defined by
16 G.S. 62-302(b)(4)a. shall be adjusted to reflect the decrease in the total regulatory fee collected
17 as a result of Sections 2 and 3 of this act and shall be set to ensure the total regulatory fee
18 collected for each fiscal year is at least an amount sufficient to defray the cost of the operations
19 of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable
20 margin for a reserve fund.

21 **SECTION 5.** This act becomes effective July 1, 2015.