

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2016-118
SENATE BILL 673

AN ACT TO PROVIDE RECOVERY OF CAPITAL-RELATED COSTS INCURRED BY A
NATURAL GAS UTILITY FOR CONSTRUCTING NATURAL GAS
INFRASTRUCTURE FOR A LARGE MANUFACTURING EMPLOYER.

The General Assembly of North Carolina enacts:

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

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

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

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

- (1) The project will be located in an area where adequate natural gas infrastructure for the eligible project is not economically feasible.
- (2) Either the developer, prospective customer, or the occupant of the eligible project provides, prior to initiation of construction of the natural gas economic development infrastructure, a binding commitment in the form of a commercial contract or other form acceptable to the Commission to the natural gas local distribution company regarding service needed for a period of at least 10 years from the date the gas is made available.
- (3) The projected margin revenues not recoverable under G.S. 62-133.4 from the eligible project will not be sufficient to cover the cost of the natural gas infrastructure associated with the project.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 1st day of July, 2016.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 8:04 a.m. this 28th day of July, 2016