

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 332  
Committee Substitute Favorable 4/1/15

Short Title: Natural Gas Econ. Dev. Infrastructure.

(Public)

Sponsors:

Referred to:

March 24, 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  
4 INFRASTRUCTURE 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  
7 a new section to read:

8 "**§ 62-133.13. Cost recovery for natural gas economic development infrastructure.**

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

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

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

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

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

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

34 (d) Costs Recoverable. – Eligible economic development infrastructure development  
35 costs are the reasonable and prudent costs determined by the Commission to be directly related



1 to the construction of natural gas infrastructure for an eligible project and may include any of  
2 the following:

3 (1) Planning costs.

4 (2) Development costs.

5 (3) Construction costs and an allowance for funds used during construction and  
6 a return on investment once the project is completed calculated using the  
7 pretax overall rate of return approved by the Commission in the company's  
8 most recent general rate case.

9 (4) A revenue retention factor.

10 (5) Depreciation.

11 (6) Property taxes.

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

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

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

29 **"§ 143B-437.021. Natural gas economic development infrastructure.**

30 (a) Purpose and Definitions. – The purpose of this section is to provide eligibility  
31 criteria for projects that require natural gas service infrastructure. Costs of natural gas service  
32 infrastructure for projects the Department determines are eligible projects under this section  
33 may be recovered by natural gas local distribution companies with approval of the North  
34 Carolina Utilities Commission under G.S. 62-133.13. The definitions used in G.S. 143B-437.01  
35 apply in this section. In addition, as used in this section, the term "Department" means the  
36 Department of Commerce.

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

39 (1) The eligible project will provide opportunities for natural gas usage, jobs,  
40 and other economic development benefits in addition to those provided by  
41 the project.

42 (2) The Department certifies that the business has invested or intends to invest at  
43 least two hundred million dollars (\$200,000,000) of private funds in  
44 improvements to real property and additions to tangible personal property in  
45 the project.

46 (3) The business employs or intends to employ at least 1,500 full-time  
47 employees or equivalent full-time contract employees at the project at the  
48 time the application is made and the business agrees to maintain at least  
49 1,500 full-time employees or equivalent full-time contract employees at the  
50 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  
4 one hundred and ten percent (110%) of the average wage for all insured private employers in  
5 the county. The Department of Commerce shall annually publish the wage standard for each  
6 county. In making the wage calculation, the business shall include any jobs that were filled for  
7 at least 1,600 hours during the calendar year, regardless of whether the jobs are full-time  
8 positions or equivalent full-time contract positions. Each year that a rate adjustment surcharge  
9 mechanism under G.S. 62-133.13 is in effect, the business shall provide the Department a  
10 certification that the business continues to satisfy the wage standard.

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

17       Each year that a rate adjustment surcharge mechanism under G.S. 62-133.13 is in effect, the  
18 business shall provide the Department a certification that the business continues to make  
19 available health insurance for all full-time employees of the project governed by the agreement.

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

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

29       **SECTION 3.** This act is effective when it becomes law and expires July 1, 2020.  
30 The expiration does not affect the validity of any rate adjustment surcharge mechanism  
31 imposed or authorized under the provisions of this act prior to the effective date of the  
32 expiration.