

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1039

Short Title: Natural Gas Expansion/Cost.

(Public)

Sponsors: Representatives Kerr, R. Hunter, Mavretic, Anderson; Bowman, Smith, and Wainwright.

Referred to: Public Utilities.

April 22, 1991

A BILL TO BE ENTITLED

AN ACT TO FACILITATE THE CONSTRUCTION OF FACILITIES IN AND THE EXTENSION OF NATURAL GAS SERVICE TO UNSERVED AREAS AND TO REVISE THE PROCEDURES FOR GAS COST ADJUSTMENTS FOR NATURAL GAS LOCAL DISTRIBUTION COMPANIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-2 is amended by adding a new subdivision to read:

"(9) To facilitate the construction of facilities in and the extension of natural gas service to unserved areas in order to promote the public welfare throughout the State and to that end to authorize the creation of an expansion fund for each natural gas local distribution company to be administered under the supervision of the North Carolina Utilities Commission."

Sec. 2. Chapter 62 of the General Statutes is amended by adding a new section to read:

**"§ 62-158. Natural Gas Expansion.**

(a) In order to facilitate the construction of facilities in and the extension of natural gas service to unserved areas, the Commission may, after a hearing, order a natural gas local distribution company to create a special natural gas expansion fund to be used by that company to construct natural gas facilities in areas within the company's franchised territory that otherwise would not be feasible for the company to construct. The fund shall be supervised and administered by the Commission.

1       (b) Sources of funding for a natural gas local distribution company's expansion  
2 fund may, subject to approval of the Commission after hearing, include:

3           (1) Refunds to a local distribution company from the company's suppliers  
4 of natural gas and transportation services pursuant to refund orders or  
5 requirements of the Federal Energy Regulatory Commission;

6           (2) Expansion surcharges for the local distribution company applicable to  
7 customers throughout that company's franchised territory; provided,  
8 however, in determining the amount of any surcharge the Commission  
9 shall take into account the prices of alternative sources of energy and  
10 the need to remain competitive with those alternative sources, and the  
11 need to maintain just and reasonable rates for natural gas for all  
12 customers served by the company; and

13           (3) Other sources of funding approved by the Commission.

14       (c) The application of all such funds to expansion projects shall be subject to  
15 approval of the Commission. The Commission shall ensure that all projects to which  
16 expansion funds are applied are consistent with the intent of this section and G.S. 62-  
17 2(9).

18       (d) The Commission, after hearing, may adopt rules to implement this section,  
19 including rules for the establishment of expansion funds, for the use of such funds, and  
20 for appropriate accounting, reporting and ratemaking treatment. The Commission shall  
21 report to the Joint Legislative Utility Review Committee on the operation of any  
22 expansion funds in conjunction with the reports provided under G.S. 62-36A."

23       Sec. 3. Chapter 105 of the General Statutes is amended by adding a new  
24 section to read:

25 **"§ 105-130.5A. Exclusion by certain public utilities from State net income of**  
26 **surcharges collected with the approval of the Utilities Commission.**

27 In determining State net income, natural gas local distribution companies shall  
28 exclude special charges collected from customers on account of a natural gas expansion  
29 surcharge approved by the North Carolina Utilities Commission pursuant to G.S. 62-  
30 158."

31       Sec. 4. G.S. 105-116 is amended by adding a new subsection to read:

32       "(c1) The tax imposed by this section does not apply to special charges collected  
33 within this State by natural gas utilities pursuant to expansion surcharges approved by  
34 the Utilities Commission under G.S. 62-158."

35       Sec. 5. G.S. 105-164.4(a)(4a) reads as rewritten:

36           "(4a) At the rate of three percent (3%) of the gross receipts derived  
37 by a utility from sales of electricity, piped natural gas, or local  
38 telecommunications service as defined by G.S. however, the tax  
39 imposed by this section shall not apply to special charges  
40 collected within this State by natural gas utilities pursuant to  
41 expansion surcharges approved by the North Carolina Utilities  
42 Commission under G.S. 62-158. A person who operates a  
43 utility is considered a retailer under this Article."

44       Sec. 6. G.S. 158-7.1(b)(5) reads as rewritten:

1           "(5) A county or city may ~~extend~~ construct, extend or own utility facilities  
2           or may provide for or assist in the extension of utility services to be  
3           furnished to an industrial facility, whether the utility is publicly or  
4           privately owned."

5           Sec. 7. G.S. 62-133(f) is repealed.

6           Sec. 8. Chapter 62 of the General Statutes is amended by adding a new  
7 section to read:

8           "**§ 62-133.4. Gas cost adjustment for natural gas local distribution companies.**

9           (a) Rate changes for natural gas local distribution companies occasioned by  
10 changes in the cost of natural gas supply and transportation may be determined under  
11 this section rather than under G.S. 62-133(b), (c), or (d).

12           (b) From time to time, as changes in the cost of natural gas require, each natural  
13 gas local distribution company may apply to the Commission for permission to change  
14 its rates to track changes in the cost of natural gas supply and transportation. The  
15 Commission may, without a hearing, issue an order allowing such rate changes to  
16 become effective simultaneously with the effective date of the change in the cost of  
17 natural gas or at any other time ordered by the Commission. If the Commission has not  
18 issued an order under this subsection within 30 days after the application, the utility  
19 may place the requested rate adjustment into effect. If the rate adjustment is finally  
20 determined to be excessive or is denied, the utility shall make refund of any excess, plus  
21 interest as provided in G.S. 62-130(e), to its customers in a manner ordered by the  
22 Commission. Any rate adjustment under this subsection is subject to review under  
23 subsection (c) of this section.

24           (c) Each natural gas local distribution company shall submit to the Commission  
25 information and data for an historical 12-month test period concerning the utility's  
26 actual cost of gas, volumes of purchased gas, sales volumes, negotiated sales volumes,  
27 and transportation volumes. This information and data shall be filed on an annual basis  
28 in the form and detail and at the time required by the Commission. The Commission,  
29 upon notice and hearing, shall compare the utility's prudently incurred costs with costs  
30 recovered from all the utility's customers that it served during the test period. If those  
31 prudently incurred costs are greater or less than the recovered costs, the Commission  
32 shall, subject to G.S. 62-158, require the utility to refund any over-recovery by credit to  
33 bill or through a decrement in its rates and shall permit the utility to recover any  
34 deficiency through an increment in its rates.

35           (d) Nothing in this section prohibits the Commission from investigating and  
36 changing unreasonable rates as authorized by this Chapter, nor does it prohibit the  
37 Commission from disallowing the recovery of any gas costs not prudently incurred by a  
38 utility.

39           (e) As used in this section, the word 'cost' or 'costs' includes all costs related to  
40 the purchase and transportation of natural gas including (1) fixed costs (such as demand  
41 costs, storage costs, gas inventory costs, standby fees, reservation fees, or other similar  
42 costs), (2) variable or commodity costs, and (3) other costs as delineated by rule by the  
43 Commission."

44           Sec. 9. This act is effective upon ratification.