

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE DRS25101-TDxz-19A\* (12/16)

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

Sponsors: Senator Brown (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ADJUST THE UTILITY REGULATORY FEE TO REFLECT THE  
3 CHANGING REGULATORY CLIMATE FOR THE TELECOMMUNICATIONS  
4 INDUSTRY, AS RECOMMENDED BY THE LRC COMMITTEE ON THE  
5 ASSESSMENT OF REGULATED AND NON-REGULATED INDUSTRY UTILITY  
6 FEES.

7 The General Assembly of North Carolina enacts:

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

9 **"§ 62-302. Regulatory fee.**

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

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

24 (b) Public Utility Rate. –

25 (1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

26 (2) The—For noncompetitive jurisdictional revenues as defined in  
27 sub-subdivision (4)a. of this subsection, the public utility regulatory fee for  
28 each fiscal year shall be is the greater of (i) a percentage rate, established by  
29 the General Assembly, of each public utility's North—Carolina  
30 noncompetitive jurisdictional revenues for each quarter or (ii) six dollars and  
31 twenty-five cents (\$6.25) each quarter. For subsection (h) competitive  
32 jurisdictional revenues as defined in sub-subdivision (4)b. of this subsection,  
33 and subsection (m) competitive jurisdictional revenues as defined in  
34 sub-subdivision (4)c. of this subsection, the public utility regulatory fee for  
35 each fiscal year is a percentage rate established by the General Assembly of  
36 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~~ <sup>all</sup> 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~~ <sup>all</sup>  
 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.