

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 628*

Short Title: Natural Gas Econ. Dev. Infrastructure. (Public)

Sponsors: Senators Brock, Rucho, B. Jackson (Primary Sponsors); Cook, Hise, Rabon, and Tarte.

Referred to: Rules and Operations of the Senate.

March 30, 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 as part of 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 available.
18 (2) Either the developer or the occupant of the eligible project provides, prior to
19 initiation of construction of the natural gas economic development
20 infrastructure, a binding commitment in the form of a commercial contract
21 or other form acceptable to the Commission, to the natural gas local
22 distribution company regarding service needed for a period of at least ten
23 years from the date the gas is made available.
24 (3) The projected non-gas revenues from the eligible project will not be
25 sufficient to cover the cost of the natural gas infrastructure associated with
26 the project.

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



1 (d) Costs recoverable. – Eligible infrastructure development costs are the reasonable
2 and prudent costs determined by the Commission to be directly related to the construction of
3 natural gas infrastructure for an eligible project and may include any of the following:

4 (1) Planning costs.

5 (2) Development costs.

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

10 (4) A revenue retention factor.

11 (5) Depreciation.

12 (6) Property taxes.

13 (e) Rate Adjustment Surcharge Mechanism. – The Commission shall permit recovery
14 of eligible economic development infrastructure costs in a rate adjustment surcharge
15 mechanism. The mechanism shall allow for recovery on an annual or semiannual basis, as
16 determined by the Commission, subject to audit and reconciliation procedures. Any rate
17 adjustment surcharge mechanism adopted under this section shall terminate with the natural gas
18 local distribution company's next general rate case.

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

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

27 **"§ 143B-437.021. Natural gas economic development infrastructure.**

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

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

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

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

44 (3) The business employs at least 1,500 full-time employees or equivalent
45 full-time contract employees at the project at the time the application is
46 made, and the business agrees to maintain at least 1,500 full-time employees
47 or equivalent full-time contract employees at the project.

48 (c) Wage Standard. – A project may be considered an eligible project under this section
49 only if the project is undertaken by a business that satisfies a wage standard at the project. A
50 business satisfies the wage standard if it pays an average weekly wage that is at least equal to
51 one hundred and ten percent (110%) of the average wage for all insured private employers in

1 the county. The Department of Commerce shall annually publish the wage standard for each
2 county. In making the wage calculation, the business shall include any jobs that were filled for
3 at least 1,600 hours during the calendar year, regardless of whether the jobs are full-time
4 positions or equivalent full-time contract positions. Each year that a rate adjustment surcharge
5 mechanism under G.S. 62-133.13 is in effect, the business shall provide the Department a
6 certification that the business continues to satisfy the wage standard.

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

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

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

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

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