

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

H.B. 332  
Mar 23, 2015  
HOUSE PRINCIPAL CLERK

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HOUSE DRH40152-TD-8 (02/03)

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

Sponsors: Representatives Hager, Collins, McElraft, and Saine (Primary Sponsors).

Referred to:

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.

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



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

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

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

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

24 **"§ 143B-437.021. Natural gas economic development infrastructure.**

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

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

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

45       (c)   Wage Standard. – A project may be considered an eligible project under this section  
46 only if the project is undertaken by a business that satisfies a wage standard at the project. A  
47 business satisfies the wage standard if it pays an average weekly wage that is at least equal to  
48 one hundred and ten percent (110%) of the average wage for all insured private employers in  
49 the county. The Department of Commerce shall annually publish the wage standard for each  
50 county. In making the wage calculation, the business shall include any jobs that were filled for  
51 at least 1,600 hours during the calendar year, regardless of whether the jobs are full-time

1 positions or equivalent full-time contract positions. Each year that a rate adjustment surcharge  
2 mechanism under G.S. 62-133.13 is in effect, the business shall provide the Department a  
3 certification that the business continues to satisfy the wage standard.

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

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

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

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

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