

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 1197
HOUSE BILL 1594

AN ACT TO AMEND CHAPTER 62 OF THE GENERAL STATUTES TO PROVIDE FOR
UTILITIES COMMISSION CONSIDERATION OF ANNUAL FUEL ADJUSTMENT TO
ELECTRIC UTILITY RATES ESTABLISHED PURSUANT TO G.S. 62-133.

The General Assembly of North Carolina enacts:

Section 1. Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-133.2. Fuel charge adjustments for electric utilities. — (a) The Commission may allow electric utilities to charge a uniform increment or decrement as a rider to their rates for changes in the cost of fuel and the fuel component of purchased power used in providing their North Carolina customers with electricity from the cost of fuel and the fuel component of purchased power established in their previous general rate case.

(b) For each electric utility engaged in the generation and production of electric power by fossil or nuclear fuels, the Commission shall hold a hearing within 12 months of the last general rate case order and determine whether an increment or decrement rider is required to reflect actual changes in the cost of fuel and the fuel cost component of purchased power over or under base rates established in the last preceding general rate case. Additional hearings shall be held on an annual basis but only one hearing for each such electric utility may be held within 12 months of the last general rate case.

(c) Each electric utility shall submit to the Commission for the hearing verified annualized information and data in such form and detail as the Commission may require, for an historic 12-month test period, relating to:

- (1) Purchased cost of fuel used in each generating facility owned in whole or in part by the utility.
- (2) Fuel procurement practices and fuel inventories for each facility.
- (3) Burned cost of fuel used in each generating facility.
- (4) Plant capacity factor for each generating facility.
- (5) Plant availability factor for each generating plant.
- (6) Generation mix by types of fuel used.
- (7) Sources and fuel cost component of purchased power used.
- (8) Recipients of and revenues received for power sales and times of power sales.
- (9) Test period kilowatt hour sales for the utility's total system and on the total system separated for North Carolina jurisdictional sales.

(d) The Commission shall provide for notice of a public hearing with reasonable and adequate time for investigation and for all intervenors to prepare for hearing. At the hearing the Commission shall receive evidence from the Utility, the Public Staff, and any intervenor desiring to submit evidence, and from the public generally. In reaching its decision, the Commission shall consider all evidence required under subsection (c) of this section. The Commission may also consider, but is not bound by, the fuel costs incurred by the utility and the actual recovery under the rate in effect during the test period as well as any and all other competent evidence that may assist the Commission in reaching its decision including changes

in the price of fuel consumed and changes in price of the fuel component of purchased power occurring within a reasonable time (as determined by the Commission) after the test period is closed. The burden of proof as to the correctness and reasonableness of the charge shall be on the utility. The Commission shall allow only that portion, if any, of a requested fuel adjustment that is based on adjusted and reasonable fuel expenses prudently incurred under efficient management and economic operations. To the extent that the Commission determines that an increment or decrement to the rates of the utility due to changes in the cost of fuel and the fuel cost component of purchased power over or under base fuel costs established in the preceding general rate case is just and reasonable, the Commission shall order that the increment or decrement become effective for all sales of electricity and remain in effect until changed in a subsequent general rate case or annual proceeding under this section.

(e) If the Commission has not issued an order pursuant to this section within 120 days of a utility's submission of annual data under subsection (c) of this section, the utility may place the requested fuel adjustment into effect. If the change in rate is finally determined to be excessive, the utility shall make refund of any excess plus interest to its customers in a manner ordered by the Commission.

(f) Nothing in this section shall relieve the Commission from its duty to consider the reasonableness of fuel expenses in a general rate case and to set rates reflecting reasonable fuel expenses pursuant to G.S. 62-133."

Sec. 2. G.S. 62-134(e) is repealed.

Sec. 3. All rates and charges under G.S. 62-134(e) shall terminate not later than December 1, 1982. In general rate cases now pending, the Commission shall not use fuel costs or costs of purchased power established in a proceeding pursuant to G.S. 62-134(e), but shall determine the just and reasonable amount of the costs pursuant to G.S. 62-133(b)(3).

Sec. 4. The Utilities Commission shall, upon public notice and hearing with all interested parties allowed to participate and testify, investigate the present and future need and justification for electric utility fuel charge adjustments as provided for in this act and report its findings and recommendations to the Governor and the Utility Review Committee of the General Assembly on or before the convening date of the 1983 General Assembly, Second Session 1984; or if there is no 1984 Session, to the 1985 General Assembly on or before its convening date.

Sec. 5. The North Carolina Utility Review Committee shall, upon public notice and hearing with all interested parties allowed to participate and testify, investigate the present and future need and justification for inclusion in the rate base of public utilities construction work in progress, as now provided for in G.S. 62-133(b)(1), and report its findings and recommendations to the Governor and the General Assembly in the 1983 Session.

Sec. 6. The second sentence of G.S. 62-133(b)(1) is amended by striking the words "shall be included" and inserting in their place the words "may be included, to the extent the Commission considers such inclusion in the public interest and necessary to the financial stability of the utility in question,."

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1982.