

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 677  
SENATE BILL 524

AN ACT TO PROVIDE ADJUSTMENTS TO COSTS IN ELECTRIC UTILITY  
RATEMAKING AND TO STUDY THE QUESTION OF CONTINUING THE  
AUTHORITY FOR TRUE-UPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-133.2 reads as rewritten:

"§ 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 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 the price of the fuel in the fuel component of purchased power occurring within a reasonable time (as determined by the Commission) after the test period is closed. ~~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 in the fuel component of purchased power occurring within a reasonable time (as determined by the Commission) after the test period is closed.~~ The Commission shall incorporate in its fuel cost determination under this subsection the experienced over-recovery or under-recovery of reasonable fuel expenses prudently incurred during the test period, based upon the prudent standards set pursuant to subsection (d1) of this section, in fixing an increment or decrement rider. The Commission shall use deferral accounting, and consecutive test periods, in complying with this subsection, and the over-recovery or under-recovery portion of the increment or decrement shall be reflected in rates for 12 months, notwithstanding any changes in the base fuel cost in a general rate case. The burden of proof as to the correctness and reasonableness of the charge shall be on the utility. ~~The burden of proof as to the correctness and reasonableness of the charge and as to whether the fuel charges were reasonably and prudently incurred 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. In evaluating whether fuel expenses were reasonable and prudently incurred, the Commission shall apply the rule adopted pursuant to subsection (d1). 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.

(d1) Within one year after ratification of this act, for the purposes of setting fuel rates, the Commission shall adopt a rule that establishes prudent standards and procedures with which it can appropriately measure management efficiency in minimizing fuel costs.

(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. The enactment of this act shall be construed as clarifying rather than changing the meaning of G.S. 62-133.2 as it was previously worded and as construed by the Utilities Commission in Commission Rule R8-55 so that electric utilities will recover only their reasonable fuel expenses prudently incurred, including the fuel cost component of purchased power, with no over-recovery or under-recovery, in a manner that will serve the public interest.

Sec. 3. Until the Commission has formally adopted a rule as prescribed by subsection (d1) of G.S. 62-133.2 all fuel charge adjustment proceedings shall be heard and decided pursuant to the applicable provisions of subsections (a), (b), (c), (d), (e) and (f) of G.S. 62-133.2 and Commission Rule R8-55.

Sec. 4. The Joint Legislative Utility Review Committee shall study the matter of recovery or "true-up" of fuel costs, the matter of fuel charge adjustments, and the question of how efficient, cost effective management of electric utilities can be assured, and shall report its findings and recommendations to the General Assembly prior to the convening of the 1989 Session of the General Assembly. This study shall include, although it is not limited to, the following:

1. Whether a "true-up" procedure should be a part of the rate structure.
2. Whether fuel charge adjustments should be continued.
3. If either fuel charge adjustments or "true-ups" are continued, whether the present practice of requiring an annual proceeding should be maintained or some other procedure adopted.
4. Whether the Utilities Commission should be required to adopt other rules that establish prudent standards against which it may appropriately measure management efficiency in general, not just in the area of minimizing fuel costs, and whether such rules should place the burden of proving management efficiency on the utility in any proceeding involving charges to customers.
5. Whether the Utilities Commission should be required to devise a system by which the management and operation of the electric utilities operating in the State can be compared, and whether such comparisons should be required to be published on a regular basis.

Sec. 5. G.S. 62-133.2 is repealed in its entirety effective July 1, 1989.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1987.