

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 356

Short Title: NCUC Reg. Fee Changes. (Public)

Sponsors: Representatives Arp, Collins, and Warren (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Public Utilities.

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE CAP ON THE UTILITIES REGULATORY FEE RESERVE,
TO SET THE REGULATORY FEE IN STATUTE, AND TO ALLOW THE
COMMISSION TO RAISE OR LOWER THE FEE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 62-302(a) reads as rewritten:

"(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the ~~public~~-public and to maintain a reasonable margin for a reserve fund. The amount of the reserve may not exceed one-half of the cost of operating the Commission and the Public Staff as reflected in the certified budget for the previous fiscal year.

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

...."

SECTION 1.(b) Subdivisions 14.19(e1)(4), (5), (6), and (10) of S.L. 2009-451 are repealed.

SECTION 2. G.S. 62-302, as amended by Section 1.(a) of this act, reads as rewritten:

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



1 the reserve may not exceed one-half of the cost of operating the Commission and the Public
2 Staff as reflected in the certified budget for the previous fiscal year.

3 It is also the policy of the State to provide limited oversight of certain electric membership
4 corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of
5 providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each
6 electric membership corporation whose principal purpose is to furnish or cause to be furnished
7 bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as
8 provided in this section. (b) Public Utility Rate. –

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

10 (2) Unless adjusted under subdivision (3) of this subsection, the public utility
11 fee is a percentage of a utility's jurisdictional revenues as follows:

12 Noncompetitive jurisdiction revenues 0.148%

13 Subsection (h) competitive jurisdiction revenues 0.06%

14 Subsection (m) competitive jurisdiction revenues 0.05%

15 ~~For noncompetitive jurisdiction revenues as defined in sub subdivision~~
16 ~~(4)a. of this subsection, the public utility regulatory fee for each~~
17 ~~fiscal year is the greater of (i) a percentage rate, established by the~~
18 ~~General Assembly, of each public utility's noncompetitive~~
19 ~~jurisdictional revenues for each quarter or (ii) six dollars and~~
20 ~~twenty five cents (\$6.25) each quarter. For subsection (h)~~
21 ~~competitive jurisdiction revenues as defined in sub subdivision~~
22 ~~(4)b. of this subsection, and subsection (m) competitive jurisdictional~~
23 ~~revenues as defined in sub subdivision (4)c. of this subsection, the~~
24 ~~public utility regulatory fee for each fiscal year is a percentage rate~~
25 ~~established by the General Assembly of each public utility's~~
26 ~~competitive jurisdictional revenues for each quarter.~~

27 ~~When the Commission prepares its budget request for the upcoming~~
28 ~~fiscal year, the Commission shall propose a percentage rate of the public~~
29 ~~utility regulatory fee. For fiscal years beginning in an odd-numbered year,~~
30 ~~that proposed rate shall be included in the budget message the Governor~~
31 ~~submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years~~
32 ~~beginning in an even-numbered year, that proposed rate shall be included in~~
33 ~~a special budget message the Governor shall submit to the General~~
34 ~~Assembly. The General Assembly shall set the percentage rate of the public~~
35 ~~utility regulatory fee by law.~~

36 ~~The percentage rate may not exceed the amount necessary to generate~~
37 ~~funds sufficient to defray the estimated cost of the operations of the~~
38 ~~Commission and the Public Staff for the upcoming fiscal year, including a~~
39 ~~reasonable margin for a reserve fund. The amount of the reserve may not~~
40 ~~exceed the estimated cost of operating the Commission and the Public Staff~~
41 ~~for the upcoming fiscal year. In calculating the amount of the reserve, the~~
42 ~~General Assembly shall consider all relevant factors that may affect the cost~~
43 ~~of operating the Commission or the Public Staff or a possible unanticipated~~
44 ~~increase or decrease in North Carolina jurisdictional revenues.~~

45 (3) In the first half of each calendar year, the Commission shall review the
46 estimated cost of operating the Commission and the Public Staff for the next
47 fiscal year, including a reasonable margin for the reserve fund allowed under
48 this section. In making this determination, the Commission shall consider all
49 relevant factors that may affect the cost of operating the Commission or the
50 Public Staff or a possible unanticipated change in competitive and
51 noncompetitive jurisdictional revenues. If the estimated receipts provided for

1 under this section are less than the estimated cost of operating the
 2 Commission and the Public Staff for the next fiscal year, including the
 3 reasonable margin for the reserve fund, then ~~If the Commission, the Public~~
 4 Staff, or both experience a revenue shortfall, the Commission shall ~~may~~
 5 implement a temporary increase the public utility regulatory fee surcharge on
 6 noncompetitive jurisdictional revenues effective for the next fiscal year to
 7 avert the deficiency that would otherwise occur. In no event may the total
 8 percentage rate of the public utility regulatory fee on noncompetitive
 9 jurisdiction revenues plus any surcharge established by the Commission
 10 exceed ~~twenty five hundredths percent (0.25%)~~ seventeen and one-half
 11 hundredths of one percent (0.175%). If the estimated receipts provided for
 12 under this section are more than the estimated cost of operating the
 13 Commission and the Public Staff for the next fiscal year, including the
 14 reasonable margin for the reserve fund, then the Commission shall decrease
 15 the public utility regulatory fee on noncompetitive jurisdictional revenues
 16 effective for the next fiscal year.

17 (4) As used in this section:

- 18 a. "Noncompetitive jurisdictional revenues" means all revenues derived
 19 or realized from intrastate tariffs, rates, and charges approved or
 20 allowed by the Commission or collected pursuant to Commission
 21 order or rule, but not including tap-on fees or any other form of
 22 contributions in aid of construction.
- 23 b. "Subsection (h) competitive jurisdictional revenues" means all
 24 revenues derived from retail services provided by local exchange
 25 companies and competing local providers that have elected to operate
 26 under G.S. 62-133.5(h).
- 27 c. "Subsection (m) competitive jurisdictional revenues" means all
 28 revenues derived from retail services provided by local exchange
 29 companies and competing local providers that have elected to operate
 30 under G.S. 62-133.5(m).

31 (b1) Electric Membership Corporation Rate. – The electric membership corporation
 32 regulatory fee for each fiscal year shall ~~be a dollar amount as established by the General~~
 33 ~~Assembly by law is two hundred thousand dollars (\$200,000).~~

34 ~~When the Commission prepares its budget request for the upcoming fiscal year, the~~
 35 ~~Commission shall propose the amount of the electric membership corporation regulatory fee.~~
 36 ~~For fiscal years beginning in an odd-numbered year, the proposed amount shall be included in~~
 37 ~~the budget message the Governor submits to the General Assembly pursuant to G.S. 143C-3-5.~~
 38 ~~For fiscal years beginning in an even-numbered year, the proposed amount shall be included in~~
 39 ~~a special budget message the Governor shall submit to the General Assembly.~~

40 ~~The amount of the electric membership corporation regulatory fee proposed by the~~
 41 ~~Commission may not exceed the amount necessary to defray the estimated cost of the~~
 42 ~~operations of the Commission and the Public Staff for the regulation of the electric membership~~
 43 ~~corporations in the upcoming fiscal year, including a reasonable margin for a reserve fund. The~~
 44 ~~amount of the reserve may not exceed the estimated cost of the Commission and the Public~~
 45 ~~Staff for the regulation of the electric membership corporations for the upcoming fiscal year.~~

46 ...
 47 (e) ~~Recovery of fee increase.~~ Fee changes. – If a utility's regulatory fee obligation is
 48 increased, changed, the Commission shall either adjust the utility's rates to reflect the change
 49 allow for the recovery of the increased fee obligation, or approve the utility's request for an
 50 accounting order allowing deferral of the increase change in the fee obligation."

1 **SECTION 3.** G.S. 62-302(b)(2), as amended by Section 2 of this act, reads as
2 rewritten:

3 "(2) Unless adjusted under subdivision (3) of this subsection, the public utility
4 fee is a percentage of a utility's jurisdictional revenues as follows:

5 Noncompetitive jurisdiction revenues	0.148%
6 Subsection (h) competitive jurisdiction revenues	0.06% <u>0.04%</u>
7 Subsection (m) competitive jurisdiction revenues	0.05% <u>0.02%</u> "

8 **SECTION 4.** Section 2 is effective July 1, 2015, and applies to jurisdictional
9 revenues earned in each quarter that begins on or after July 1, 2015. Section 3 is effective July
10 1, 2016, and applies to jurisdictional revenues earned in each quarter that begins on or after
11 July 1, 2016. The remainder of this act is effective when it becomes law.