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HOUSE BILL 1039
Committee Substitute Favorable 6/13/91
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Short Title: Natural Gas Expansion/Cost.

(Public)

Sponsors:

Referred to:

April 22, 1991

A BILL TO BE ENTITLED

1 AN ACT TO FACILITATE THE CONSTRUCTION OF FACILITIES IN AND THE
2 EXTENSION OF NATURAL GAS SERVICE TO UNSERVED AREAS AND TO
3 REVISE THE PROCEDURES FOR GAS COST ADJUSTMENTS FOR
4 NATURAL GAS LOCAL DISTRIBUTION COMPANIES.
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6 Whereas, the 1989 General Assembly in Chapter 338 of the 1989 Session
7 Laws directed the North Carolina Utilities Commission to require the franchised natural
8 gas local distribution companies to file reports with the Commission detailing their
9 plans for providing natural gas service in areas of the State where natural gas service is
10 not available, and directed the Commission and the Public Staff to provide independent
11 analyses and summaries of those reports together with status reports of natural gas
12 service in the State to the Joint Legislative Utility Review Committee; and

13 Whereas, the reports of the utilities, the Commission and the Public Staff
14 indicate that the construction of facilities and the extension of natural gas service in
15 some areas of the State may not be economically feasible with traditional funding
16 methods; and

17 Whereas, the 1991 General Assembly finds it necessary and in the public
18 interest to authorize special funding methods, including the use of supplier refunds and
19 customer surcharges, to facilitate the expansion of natural gas service; and

20 Whereas, the 1991 General Assembly further finds that the expansion of
21 natural gas service benefits all customers in all customer classes of a local distribution

1 company so that all customers should pay a fair and reasonably proportionate share of
2 the cost of expanding natural gas service; Now, therefore,
3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 62-2 is amended by adding a new subdivision to read:

5 "(9) To facilitate the construction of facilities in and the extension of
6 natural gas service to unserved areas in order to promote the public
7 welfare throughout the State and to that end to authorize the creation
8 of an expansion fund for each natural gas local distribution company to
9 be administered under the supervision of the North Carolina Utilities
10 Commission."

11 Sec. 2. Chapter 62 of the General Statutes is amended by adding a new
12 section to read:

13 **"§ 62-158. Natural Gas Expansion.**

14 (a) In order to facilitate the construction of facilities in and the extension of
15 natural gas service to unserved areas, the Commission may, after a hearing, order a
16 natural gas local distribution company to create a special natural gas expansion fund to
17 be used by that company to construct natural gas facilities in areas within the company's
18 franchised territory that otherwise would not be feasible for the company to construct.
19 The fund shall be supervised and administered by the Commission. Any applicable
20 taxes shall be paid out of the fund.

21 (b) Sources of funding for a natural gas local distribution company's expansion
22 fund may, pursuant to the order of the Commission, after hearing, include:

23 (1) Refunds to a local distribution company from the company's suppliers
24 of natural gas and transportation services pursuant to refund orders or
25 requirements of the Federal Energy Regulatory Commission;

26 (2) Expansion surcharges by the local distribution company charged to
27 customers purchasing natural gas or transportation services throughout
28 that company's franchised territory; provided, however, in determining
29 the amount of any surcharge the Commission shall take into account
30 the prices of alternative sources of energy and the need to remain
31 competitive with those alternative sources, and the need to maintain
32 just and reasonable rates for natural gas and transportation services for
33 all customers served by the company; and

34 (3) Other sources of funding approved by the Commission.

35 (c) The application of all such funds to expansion projects shall be pursuant to
36 the order of the Commission. The Commission shall ensure that all projects to which
37 expansion funds are applied are consistent with the intent of this section and G.S. 62-
38 2(9). In determining economic feasibility, the Commission shall employ the net present
39 value method of analysis on a project specific basis. Only those projects with a negative
40 net present value shall be determined to be economically infeasible for the company to
41 construct. In no event shall the Commission authorize a distribution from the fund of an
42 amount greater than the negative net present value of any proposed project as
43 determined by the Commission. If at any time a project is determined by the
44 Commission to have become economically feasible, the Commission may require the

1 company to remit to the expansion fund or to customers appropriate portions of the
2 distributions from the fund related to the project, and the Commission may order such
3 funds to be returned with interest in a reasonable amount to be determined by the
4 Commission. Utility plant acquired with expansion funds shall be included in the local
5 distribution company's rate base at zero cost except to the extent such funds have been
6 remitted by the company pursuant to order of the Commission.

7 (d) The Commission, after hearing, may adopt rules to implement this section,
8 including rules for the establishment of expansion funds, for the use of such funds, for
9 the remittance to the expansion fund or to customers of supplier and transporter refunds
10 and expansion surcharges or other funds that were sources of the expansion fund, and
11 for appropriate accounting, reporting and ratemaking treatment. The Commission and
12 Public Staff shall report to the Joint Legislative Utility Review Committee on the
13 operation of any expansion funds in conjunction with the reports required under G.S.
14 62-36A."

15 Sec. 3. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

16 "(16) The amount of natural gas expansion surcharges collected by a
17 natural gas local distribution company under G.S. 62-158."

18 Sec. 4. G.S. 105-116(c) reads as rewritten:

19 "(c) Gas Surcharges.—Special Charges. Gross receipts of a natural gas company do
20 not include special—the following:

21 (1) Special charges collected within this State by the company pursuant to
22 drilling and exploration surcharges approved by the North Carolina
23 Utilities Commission, if the surcharges are segregated from the other
24 receipts of the company and are devoted to drilling, exploration, and
25 other means to acquire additional supplies of natural gas for the
26 account of natural gas customers in North Carolina and the beneficial
27 interest in the surcharge collections is preserved for the natural gas
28 customers paying the surcharges under rules established by the
29 Commission.

30 (2) Natural gas expansion surcharges imposed under G.S. 62-158."

31 Sec. 5. G.S. 105-164.4(a)(4a) reads as rewritten:

32 "(4a) At the rate of three percent (3%) of the gross receipts derived by a
33 utility from sales of electricity, piped natural gas, or local
34 telecommunications service as defined by G.S. 105-120(e). Gross
35 receipts from sales of piped natural gas shall not include natural gas
36 expansion surcharges imposed under G.S. 62-158. A person who
37 operates a utility is considered a retailer under this Article."

38 Sec. 6. G.S. 158-7.1(b)(5) reads as rewritten:

39 "(5) A county or city may ~~extend~~ construct, extend or own utility facilities
40 or may provide for or assist in the extension of utility services to be
41 furnished to an industrial facility, whether the utility is publicly or
42 privately owned."

1 Sec. 7. G.S. 62-133(f) is repealed; provided, however, that the repeal of G.S.
2 62-133(f) shall not affect the right of any natural gas local distribution company to
3 recover any costs previously approved by the Commission.

4 Sec. 8. Chapter 62 of the General Statutes is amended by adding a new
5 section to read:

6 **"§ 62-133.4. Gas cost adjustment for natural gas local distribution companies.**

7 (a) Rate changes for natural gas local distribution companies occasioned by
8 changes in the cost of natural gas supply and transportation may be determined under
9 this section rather than under G.S. 62-133(b), (c), or (d).

10 (b) From time to time, as changes in the cost of natural gas require, each natural
11 gas local distribution company may apply to the Commission for permission to change
12 its rates to track changes in the cost of natural gas supply and transportation. The
13 Commission may, without a hearing, issue an order allowing such rate changes to
14 become effective simultaneously with the effective date of the change in the cost of
15 natural gas or at any other time ordered by the Commission. If the Commission has not
16 issued an order under this subsection within 120 days after the application, the utility
17 may place the requested rate adjustment into effect. If the rate adjustment is finally
18 determined to be excessive or is denied, the utility shall make refund of any excess, plus
19 interest as provided in G.S. 62-130(e), to its customers in a manner ordered by the
20 Commission. Any rate adjustment under this subsection is subject to review under
21 subsection (c) of this section.

22 (c) Each natural gas local distribution company shall submit to the Commission
23 information and data for an historical 12-month test period concerning the utility's
24 actual cost of gas, volumes of purchased gas, sales volumes, negotiated sales volumes,
25 and transportation volumes. This information and data shall be filed on an annual basis
26 in the form and detail and at the time required by the Commission. The Commission,
27 upon notice and hearing, shall compare the utility's prudently incurred costs with costs
28 recovered from all the utility's customers that it served during the test period. If those
29 prudently incurred costs are greater or less than the recovered costs, the Commission
30 shall, subject to G.S. 62-158, require the utility to refund any over-recovery by credit to
31 bill or through a decrement in its rates and shall permit the utility to recover any
32 deficiency through an increment in its rates.

33 (d) Nothing in this section prohibits the Commission from investigating and
34 changing unreasonable rates as authorized by this Chapter, nor does it prohibit the
35 Commission from disallowing the recovery of any gas costs not prudently incurred by a
36 utility.

37 (e) As used in this section, the word 'cost' or 'costs' shall be defined by
38 Commission rule or order and may include all costs related to the purchase and
39 transportation of natural gas to the natural gas local distribution company's system."

40 Sec. 9. The Joint Legislative Utility Review Committee shall study the
41 matter of gas cost adjustment for natural gas local distribution companies, including
42 whether any changes in legislation are needed, and shall report its findings, together
43 with any recommendations it may have, including recommendations for the enactment
44 of legislation, to the 1992 Regular Session of the 1991 General Assembly.

1 Sec. 10. This act is effective upon ratification, but the enactment of Sections
2 7 and 8 of this bill shall not have any effect on any matter presently before any court.