



CHAPTER 62
ARTICLE 7 - RATES OF PUBLIC UTILITIES

N.C.G.S. § 62-133.2.

Fuel and fuel-related charge adjustments
for electric utilities.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	No amendment history on record	21 September 2026, 03:33 UTC	871f86d9fe552b1fce1743c6 - a53da734027e455efe8c1ffc - 71ef91330a3905ac

§ 62-133.2(a) The Commission shall permit an electric public utility that generates electric power by fossil fuel or nuclear fuel to charge an increment or decrement as a rider to its rates for changes in the cost of fuel and fuel-related costs used in providing its North Carolina customers with electricity from the cost of fuel and fuel-related costs established in the electric public utility's previous general rate case on the basis of cost per kilowatt hour.

- § 62-133.2(a1)** As used in this section, "cost of fuel and fuel-related costs" means all of the following:
- (1) The cost of fuel burned.
 - (2) The cost of fuel transportation.
 - (3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions, including emissions allowances.
 - (4) The total delivered costs, including capacity and noncapacity related costs, fuel costs, and all related transmission charges, of all purchases of electric power and capacity by the electric public utility, except for those costs recovered pursuant to G.S. 62-133.8(h).
 - (5) Repealed by Session Laws 2025-78, s. 3, effective July 29, 2025.
 - (6) Repealed by Session Laws 2025-78, s. 3, effective July 29, 2025.
 - (6a) Any other costs required to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of G.S. 62-133.8.

- (7) Repealed by Session Laws 2025-78, s. 3, effective July 29, 2025.
- (8) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of fuel and other fuel-related costs components.
- (9) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.
- (10) Repealed by Session Laws 2025-78, s. 3, effective July 29, 2025.
- (11) All nonadministrative costs related to the renewable energy procurement pursuant to G.S. 62-159.2 not recovered from the program participants.

§ 62-133.2(a2)

For those costs that involve power purchase agreements from renewable generating facilities (including qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, costs related to G.S. 62-133.8(h) or any other costs required to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of G.S. 62-133.8), and nonadministrative costs related to the renewable energy procurement pursuant to G.S. 62-159.2 not recovered from the program participants, the annual increase in the aggregate amount of these costs that are recoverable by an electric public utility pursuant to this section shall not exceed two and one-half percent (2.5%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. The costs described in subdivision (4) of subsection (a1) of this section shall be recoverable from each class of customers allocated on a demand basis among customer classes.

§ 62-133.2(a3)

Notwithstanding subsections (a1) and (a2) of this section, for an electric public utility that has fewer than 150,000 North Carolina retail jurisdictional customers as of December 31, 2006, the costs identified in subdivisions (1), (2), (4), and (6a) of subsection (a1) of this section shall be recovered through the increment or decrement rider approved by the Commission pursuant to this section. For those costs that involve power purchase agreements from renewable generating facilities (including qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. § 796, costs related to G.S. 62-133.8(h) or any other costs required to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of G.S. 62-133.8), the annual increase in the amount of these costs shall

not exceed one percent (1%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. For the costs described in subdivision (4) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the electric public utility's North Carolina peak demand for the prior year, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after January 1, 2008.

§ 62-133.2(a4)

The electric public utility shall make appropriate adjustments to its fuel and fuel-related costs to reflect costs already being recovered in base rates so as to avoid double recovery of any fuel and fuel-related costs and the Commission shall approve any accounting adjustments necessary in a future fuel proceeding or general rate case to avoid such double recovery.

§ 62-133.2(b)

The Commission shall conduct a hearing within 12 months of each electric public utility's last general rate case order to determine whether an increment or decrement rider is required to reflect actual changes in the cost of fuel and fuel-related costs over or under the cost of fuel and fuel-related costs on a kilowatt-hour basis in base rates established in the electric public utility's last preceding general rate case. Additional hearings shall be held on an annual basis but only one hearing for each electric public utility may be held within 12 months of the last general rate case.

§ 62-133.2(c)

For purposes of the annual hearing, each electric public utility shall submit to the Commission 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) Cost of fuel and fuel-related costs 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.
- (10) Procurement practices and inventories for: fuel burned and for ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
- (11) The cost incurred at each generating facility of fuel burned and of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
- (12) Any net gains or losses resulting from any sales by the electric public utility of fuel or other fuel-related costs components.
- (13) Any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.

§ 62-133.2(d)**BURDEN OF PROOF**

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 cost of fuel consumed and fuel-related costs that occur within a reasonable time, as determined by the Commission, after the test period is closed. The Commission shall incorporate in its cost of fuel and fuel-related costs determination under this subsection the experienced over-recovery or under-recovery of reasonable costs of fuel and fuel-related costs prudently incurred by the electric public utility, based upon the prudent standards set pursuant to subsection (d1) of this section, in fixing an increment or decrement rider. Upon request of the electric public utility, the Commission shall also incorporate in this determination the experienced over-recovery or under-recovery of costs of fuel and fuel-related costs through the date that is 30 calendar days prior to the date of the hearing, provided that the reasonableness and prudence of these costs shall be subject to review in the utility's next annual hearing pursuant to this section. 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. Any experienced over-recovery

or under-recovery of reasonable fuel and fuel-related costs prudently incurred shall accrue interest at the commercial paper rate as identified by the Federal Reserve for A2/P2 nonfinancial issuers, or reasonable successor thereto, on a weighted average basis over the applicable time period. The burden of proof as to the correctness and reasonableness of the charge and as to whether the cost of fuel and fuel-related costs were reasonably and prudently incurred shall be on the utility. The Commission shall allow only that portion, if any, of a requested cost of fuel and fuel-related costs adjustment that is based on adjusted and reasonable cost of fuel and fuel-related costs prudently incurred under efficient management and economic operations. In evaluating whether cost of fuel and fuel-related costs were reasonable and prudently incurred, the Commission shall apply the rule adopted pursuant to subsection (d1) of this section. 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 fuel-related costs 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.

§ 62-133.2(d1) Within one year after ratification of this act, for the purposes of setting cost of fuel and fuel-related costs rates, the Commission shall adopt a rule that establishes prudent standards and procedures with which it can appropriately measure management efficiency in minimizing cost of fuel and fuel-related costs.

§ 62-133.2(d2) Within 45 days of the end of every quarter of the applicable 12 month recovery-period approved by the Commission, each electric public utility shall file a report detailing its actual over- and under-recovered amounts through such quarter and an updated projection of the cumulative over- or under-recovered amounts at the end of such 12 month recovery-period based on the most recently available fuel forecast. If the updated projection of the cumulative over- or under-recovered amounts at the end of such 12 month recovery-period, inclusive of the actual amounts, is greater than ten percent (10%) of the total revenue requirement approved by the Commission in the most recent fuel proceeding, then the electric public utility shall identify the adjustment needed to the increment or decrement rider to address such over- or under-recovery over the twelve month period following the effective date of such adjustment, or such other time period that the Commission deems reasonable, and file an updated tariff to reflect such adjustment as part of such quarterly report. [The following provisions apply:]

- (1) The identified adjustment to the increment or decrement rider shall go into effect at the start of the month that is approximately 45 days after the quarterly update filing made under this subsection and such adjustment shall remain in effect for the twelve month period following the effective date of such adjustment, or such other time period that the Commission deems reasonable.
- (2) All of the costs of fuel and fuel-related costs, including those which are recovered through the quarterly adjustment authorized under this subsection will be reviewed for reasonableness and prudence of such costs in the next annual proceeding held by the Commission to review an electric public utility's annual fuel and fuel-related adjustment pursuant to subsections (b) and (c) of this section.
- (3) In the event that the electric public utility's projections result in either solely downward rate adjustments for 12 consecutive quarterly periods or solely upward rate adjustments for 12 consecutive quarterly periods, the electric public utility shall report to the Commission in the next annual fuel filing regarding the reasons for such outcome and its plans to improve the accuracy of its projection methodology.

§ 62-133.2(e) If the Commission has not issued an order pursuant to this section within 180 days of a utility's submission of annual data under subsection (c) of this section, the utility may place the requested cost of fuel and fuel-related costs 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.

§ 62-133.2(f) Nothing in this section shall relieve the Commission from its duty to consider the reasonableness of the cost of fuel and fuel-related costs in a general rate case and to set rates reflecting reasonable cost of fuel and fuel-related costs pursuant to G.S. 62-133. Nothing in this section shall invalidate or preempt any condition adopted by the Commission and accepted by the utility in any proceeding that would limit the recovery of costs by any electric public utility under this section.

§ 62-133.2(g) Repealed by Session Laws 2014-120, s. 10(d), effective September 18, 2014. (1981 (Reg. Sess., 1982), c. 1197, s. 1; 1987, c. 677, ss. 1, 5; 1989, c. 15, s. 1; 1991, c. 129, s. 1; 1995, c. 15, ss. 1, 2; 2007-397, s. 5; 2011-291, s. 2.11; 2014-120, s. 10(d); 2017-192, s. 4(a); 2018-114, s. 22; 2025-78, s. 3.)

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS II
4 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 62-133.8(h)	(a1)(4)	"for those costs recovered pursuant to"
G.S. 62-133.8	(a1)(6a)	"(c), (d), (e), and (f) of"
G.S. 62-159.2	(a1)(11)	"the renewable energy procurement pursuant to"
G.S. 62-133	(f)	"fuel and fuel-related costs pursuant to"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 62-133.2 (2026).

PINPOINT

N.C. Gen. Stat. § 62-133.2(a) (2026).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

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