



CHAPTER 62
ARTICLE 7 - RATES OF PUBLIC UTILITIES

N.C.G.S. § 62-133.

How rates fixed.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT S.L. 2025-78, s. 2(b) — twentieth act in the lineage	RETRIEVED 21 September 2026, 05:35 UTC	SOURCE FINGERPRINT 6f510d5f565638ceca9ba473 - bfaa95825ec6e72e6964ec38 - 0514c6f422e21064
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§ 62-133(a) In fixing the rates for any public utility subject to the provisions of this Chapter, other than bus companies, motor carriers and certain water and sewer utilities, the Commission shall fix such rates as shall be fair both to the public utilities and to the consumer.

§ 62-133(b) In fixing such rates, the Commission shall:

(1) Ascertain the reasonable original cost or the fair value under G.S. 62-133.1A of the public utility's property used and useful, or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within the State, less that portion of the cost that has been consumed by previous use recovered by depreciation expense. In addition, construction work in progress may be included in the cost of the public utility's property under any of the following circumstances:

a.To the extent the Commission considers inclusion in the public interest and necessary to the financial stability of the utility in question, reasonable and prudent expenditures for construction work in progress may be included, subject to the provisions of subdivision (4a) of this subsection.

b.For baseload electric generating facilities, reasonable and prudent expenditures shall be included pursuant to subdivisions (2) or (3) of G.S. 62-110.1(f1), whichever applies, subject to the provisions of subdivision (4a) of this subsection.

c.For baseload electric generating facilities, if the Commission determines there is an overall cost-savings for customers over the life of the generating facility and a baseload

electric generating facility has been subject to an annual ongoing review process pursuant to G.S. 62-110.1(f), the Commission shall, upon determining through the ongoing review process that the expenditures were reasonably and prudently incurred, allow an increase in base rates outside of the rate-making processes established under this section or G.S. 62-133.16 to reflect solely the financing costs on such reasonable and prudent expenditures, with the increase being effective 30 days after the Commission's order finding that the expenditures were reasonable and prudent and allocated on a demand basis among customer classes. Any recovery authorized pursuant to this sub-subdivision shall be limited to those financing costs accrued on actual, reasonable, and prudent construction costs, after taking into account any direct customer contributions actually received that offset such construction costs, up to the estimated construction cost estimate approved by the Commission or later amended by the Commission pursuant to G.S. 62-110.1(e). If applicable, any revenues actually received from customers participating in a Commission-approved customer program shall be used to reduce the construction costs of the baseload electric generating facility and thereby proportionately reduce the amount of financing costs recovered hereunder. In the event the Commission approves cancellation of a generating facility for which financing costs have been recovered pursuant to this sub-subdivision, then: (i) as of the date the Commission approves cancellation of the construction of the generating facility, the electric public utility shall cease recovery of such financing costs pursuant to this sub-subdivision; and (ii) all costs determined by the Commission pursuant to G.S. 62-110.1(f) to have been imprudently incurred shall be disallowed and shall not be recovered from customers. With respect to natural gas baseload electric generating facilities, the authorization to recover financing costs pursuant to this sub-subdivision shall sunset as of December 31, 2033, for all construction costs incurred after December 31, 2033, but continued recovery of financing costs on construction costs for natural gas baseload electric generating facilities incurred prior to December 31, 2033, shall be permitted subject to all conditions of this sub-subdivision.

- (1a) Apply the rate of return established under subdivision (4) of this subsection to rights-of-way acquired through agreements with the Department of Transportation pursuant to G.S. 136-19.5(a) if acquisition is consistent with a definite plan to provide service within five years of the date of the agreement and if such right-of-way acquisition will result in benefits to the ratepayers. If a right-of-way is not used within a reasonable time after the expiration of the five-year period, it may be removed from the rate base by the Commission when rates for the public utility are next established under this section.

- (2) Estimate such public utility's revenue under the present and proposed rates.
- (3) Ascertain such public utility's reasonable operating expenses, including actual investment currently consumed through reasonable actual depreciation.
- (4) Fix such rate of return on the cost of the property ascertained pursuant to subdivision (1) of this subsection as will enable the public utility by sound management to produce a fair return for its shareholders, considering changing economic conditions and other factors, including, but not limited to, the inclusion of construction work in progress in the utility's property under sub-subdivision b. of subdivision (1) of this subsection, as they then exist, to maintain its facilities and services in accordance with the reasonable requirements of its customers in the territory covered by its franchise, and to compete in the market for capital funds on terms that are reasonable and that are fair to its customers and to its existing investors.
- (4a) Require each public utility to discontinue capitalization of the composite carrying cost of capital funds used to finance construction (allowance for funds) on the construction work in progress included in its rate based upon the effective date of the first and each subsequent general rate order issued with respect to it after the effective date of this subsection; allowance for funds may be capitalized with respect to expenditures for construction work in progress not included in the utility's property upon which the rates were fixed. In determining net operating income for return, the Commission shall not include any capitalized allowance for funds used during construction on the construction work in progress included in the utility's rate base.
- (5) Fix such rates to be charged by the public utility as will earn in addition to reasonable operating expenses ascertained pursuant to subdivision (3) of this subsection the rate of return fixed pursuant to subdivisions (4) and (4a) on the cost of the public utility's property ascertained pursuant to subdivisions (1) and (1a) of this subsection.

§ 62-133(c)

The original cost of the public utility's property, including its construction work in progress, shall be determined as of the end of the test period used in the hearing and the probable future revenues and expenses shall be based on the plant and equipment in operation at that time. If the public utility elects to establish rate base using fair value, the fair value determination of the public utility's property shall be made as provided in G.S. 62-133.1A, and the probable future revenues and expenses shall be based on the plant and equipment in operation at the end of the test period. The

test period shall consist of 12 months' historical operating experience prior to the date the rates are proposed to become effective, but the Commission shall consider such relevant, material and competent evidence as may be offered by any party to the proceeding tending to show actual changes in costs, revenues or the cost of the public utility's property used and useful, or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within this State, including its construction work in progress, which is based upon circumstances and events occurring up to the time the hearing is closed, provided that the public utility has provided notice of the potential for such change at least 60 days prior to the start of the hearing. In setting the electric public utility's authorized rate of return on equity, the Commission shall consider any increased or decreased risk to either the electric public utility or its ratepayers that may result from recovery of financing costs pursuant to subdivision (1) of subsection (b) of this section.

§ 62-133(d) The Commission shall consider all other material facts of record that will enable it to determine what are reasonable and just rates.

§ 62-133(e) The fixing of a rate of return shall not bar the fixing of a different rate of return in a subsequent proceeding.

§ 62-133(f) Repealed by Session Laws 1991, c. 598, s. 7.

§ 62-133(g) Reserved.

§ 62-133(h) Repealed by Session Laws 1998-128, s. 4, effective September 4, 1998.

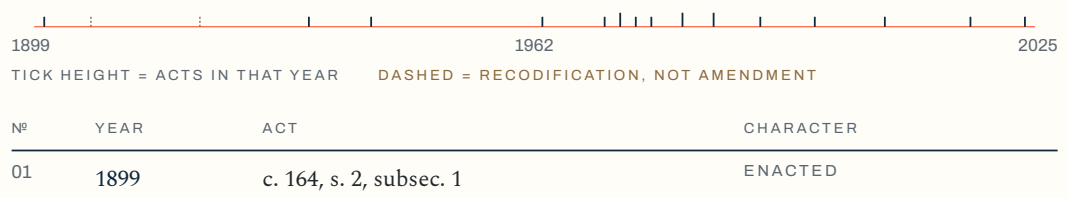
END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
20 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



02	Rev.	s. 1104	RECODIFIED
03	C.S.	s. 1068	RECODIFIED
04	1933	c. 134, s. 8	AMENDED
05	1941	c. 97	AMENDED
06	1963	c. 1165, s. 1	AMENDED
07	1971	c. 1092	AMENDED
08	1973	c. 956, s. 1	AMENDED
09	1973	c. 1041, s. 1	AMENDED
10	1975	c. 184, s. 2	AMENDED
11	1977	c. 691, ss. 2, 3	AMENDED
12	1981	c. 476	AMENDED
13	1981	1981 (Reg. Sess., 1982), c. 1197, s. 6	AMENDED
14	1985	c. 676, s. 15(2)	AMENDED
15	1985	1989 (Reg. Sess., 1990), c. 962, s. 4	AMENDED
16	1991	c. 598, s. 7	AMENDED
17	1998	S.L. 1998-128, s. 4	AMENDED
18	2007	S.L. 2007-397, s. 8	AMENDED
19	2018	S.L. 2018-51, s. 1	AMENDED
20	2025	S.L. 2025-78, s. 2(b)	AMENDED

APPARATUS II
6 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. 62-133.1A	(b)(1)	"cost or the fair value under"
G.S. 62-110.1(f1)	(b)	"to subdivisions (2) or (3) of"
G.S. 62-110.1(f)	(b)	"annual ongoing review process pursuant to"
G.S. 62-133.16	(b)	"processes established under this section or"
G.S. 62-110.1(e)	(b)	"amended by the Commission pursuant to"
G.S. 136-19.5(a)	(b)(1a)	"the Department of Transportation pursuant to"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 62-133 (2025).

PINPOINT

N.C. Gen. Stat. § 62-133(a) (2025).

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.

COLOPHON

Provenance

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This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1899, c. 164, s. 2, subsec. 1; Rev., s. 1104; C.S., s. 1068; 1933, c. 134, s. 8; 1941, c. 97; 1963, c. 1165, s. 1; 1971, c. 1092; 1973, c. 956, s. 1; c. 1041, s. 1; 1975, c. 184, s. 2; 1977, c. 691, ss. 2, 3; 1981, c. 476; 1981 (Reg. Sess., 1982), c. 1197, s. 6; 1985, c. 676, s. 15(2); 1989 (Reg. Sess., 1990), c. 962, s. 4; 1991, c. 598, s. 7; 1998-128, s. 4; 2007-397, s. 8; 2018-51, s. 1; 2025-78, s. 2(b).)

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