Article 6.

The Utility Franchise.

**§ 62-110. Certificate of convenience and necessity.**

(a) Except as provided for bus companies in Article 12 of this Chapter, no public utility shall hereafter begin the construction or operation of any public utility plant or system or acquire ownership or control thereof, either directly or indirectly, without first obtaining from the Commission a certificate that public convenience and necessity requires, or will require, such construction, acquisition, or operation: Provided, that this section shall not apply to construction into territory contiguous to that already occupied and not receiving similar service from another public utility, nor to construction in the ordinary conduct of business.

(b) The Commission shall be authorized to issue a certificate to any person applying to the Commission to offer long distance services as a public utility as defined in G.S. 62-3(23)a.6., provided that such person is found to be fit, capable, and financially able to render such service, and that such additional service is required to serve the public interest effectively and adequately; provided further, that in such cases the Commission shall consider the impact on the local exchange customers and only permit such additional service if the Commission finds that it will not jeopardize reasonably affordable local exchange service.

Notwithstanding any other provision of law, the terms, conditions, rates, and interconnections for long distance services offered on a competitive basis shall be regulated by the Commission in accordance with the public interest. In promulgating rules necessary to implement this provision, the Commission shall consider whether uniform or nonuniform application of such rules is consistent with the public interest. Provided further that the Commission shall consider whether the charges for the provision of interconnections should be uniform.

For purposes of this section, long distance services shall include the transmission of messages or other communications between two or more central offices wherein such central offices are not connected on July 1, 1983, by any extended area service, local measured service, or other local calling arrangement.

(c) The Commission shall be authorized, consistent with the public interest, to adopt procedures for the issuance of a special certificate to any person for the limited purpose of offering telephone service to the public by means of coin, coinless, or key-operated pay telephone instruments. This service may be in addition to or in competition with public telephone services offered by the certificated telephone company in the service area. The access line from the pay instrument to the network may be obtained from the local exchange telephone company in the service area where the pay instrument is located, from any certificated competitive local provider, or any other provider authorized by the Commission. The Commission shall promulgate rules to implement the service authorized by this section, recognizing the competitive nature of the offerings and, notwithstanding any other provision of law, the Commission shall determine the extent to which such services shall be regulated and to the extent necessary to protect the public interest regulate the terms, conditions, and rates for such service and the terms and conditions for interconnection to the local exchange network.

(d) The Commission shall be authorized, consistent with the public interest and notwithstanding any other provision of law, to adopt procedures for the purpose of allowing shared use and/or resale of any telephone service provided to persons who occupy the same contiguous premises (as such term shall be defined by the Commission); provided, however, that there shall be no "networking" of any services authorized under this subsection whereby two or more premises where such services are provided are connected, and provided further that any certificated local

provider or any other provider authorized by the Commission may provide access lines or trunks connecting such authorized service to the telephone network, and that the local service rates permitted or approved by the Commission for local exchange lines or trunks being shared or resold shall be on a measured usage basis where facilities are available or on a message rate basis otherwise. Provided however, the Commission may permit or approve flat rates, measured rates, message rates, or some combination of those rates for shared or resold services whenever the service is offered to patrons of hotels or motels, occupants of timeshare or condominium complexes serving primarily transient occupants, to patrons of hospitals, nursing homes, rest homes, or licensed retirement centers, or to members of clubs or students living in quarters furnished by educational institutions, or to persons temporarily subleasing residential premises. The Commission shall issue rules to implement the service authorized by this subsection, considering the competitive nature of the offerings and, notwithstanding any other provision of law, the Commission shall determine the extent to which such services shall be regulated and, to the extent necessary to protect the public interest, regulate the terms, conditions, and rates charged for such services and the terms and conditions for interconnection to the local exchange network. The Commission shall require any person offering telephone service under this subsection by means of a Private Branch Exchange ("PBX") or key system to secure adequate local exchange trunks from any certificated local provider or any other provider authorized by the Commission so as to assure a quality of service equal to the quality of service generally found acceptable by the Commission. Unless otherwise ordered by the Commission for good cause shown by the company, the right and obligation of the certificated local provider or any other provider authorized by the Commission to provide local service directly to any person located within its certificated service area shall continue to apply to premises where shared or resold telephone service is available, provided however, the Commission shall be authorized to establish the terms and conditions under which such services should be provided.

(e) Notwithstanding subsection (d) of this section, the Commission may authorize any telephone services provided to a nonprofit college or university, and its affiliated medical centers, which is qualified under Sections 501 and 170 of the United States Internal Revenue Code of 1986 or which is a State-owned institution, to be shared or resold by that institution on both contiguous campus premises owned or leased by the institution and noncontiguous premises owned or leased exclusively by the institution, provided these services are offered to students or guests housed in quarters furnished by the institution, patrons of hospitals or medical centers of the institution, or persons or businesses providing educational, research, professional, consulting, food, or other support services directly to or for the institution, its students, or guests. The services of a certificated local provider or any other provider authorized by the Commission, when provided to said colleges, universities, and affiliated medical centers shall be rated in the same way as those provided for shared service offered to patrons of hospitals, nursing homes, rest homes, licensed retirement centers, members of clubs or students living in quarters furnished by educational institutions as provided for in subsection (d) of this section. The institutions regulated pursuant to this subsection shall not be prohibited from electing optional services from the certificated local provider or any other provider authorized by the Commission which include measured or message rate services. There shall be no "networking" of any services authorized under this subsection whereby two or more different institutions where such services are provided are interconnected. Any certificated local provider or any other provider authorized by the Commission may provide access lines or trunks connecting such authorized services to the telephone network. The Commission shall require such institutions to secure adequate local exchange trunks from the

certificated local provider or any other provider authorized by the Commission to assure a quality of service equal to the quality of service generally found acceptable by the Commission. Unless otherwise ordered by the Commission for good cause shown by the certificated local provider or any other provider authorized by the Commission, the right and obligation of that provider to provide local service directly to any person located within its certificated service area shall continue to apply to premises where shared or resold telephone service is available under this subsection, provided however, the Commission shall be authorized to establish the terms and conditions under which such service should be provided. The Commission shall issue rules to implement the services authorized by this subsection.

(f) Reserved.

(f1) Except as provided in subsection (f2) of this section, the Commission is authorized, following notice and an opportunity for interested parties to be heard, to issue a certificate to any person applying to provide local exchange or exchange access services as a public utility as defined in G.S. 62-3(23)a.6., without regard to whether local telephone service is already being provided in the territory for which the certificate is sought, provided that the person seeking to provide the service makes a satisfactory showing to the Commission that (i) the person is fit, capable, and financially able to render such service; (ii) the service to be provided will reasonably meet the service standards that the Commission may adopt; (iii) the provision of the service will not adversely impact the availability of reasonably affordable local exchange service; (iv) the person, to the extent it may be required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and (v) the provision of the service does not otherwise adversely impact the public interest. In its application for certification, the person seeking to provide the service shall set forth with particularity the proposed geographic territory to be served and the types of local exchange and exchange access services to be provided. Except as provided in G.S. 62-133.5(f), any person receiving a certificate under this section shall, until otherwise determined by the Commission, file and maintain with the Commission a complete list of the local exchange and exchange access services to be provided and the prices charged for those services, and shall be subject to such reporting requirements as the Commission may require.

Any certificate issued by the Commission pursuant to this subsection shall not permit the provision of local exchange or exchange access service until July 1, 1996, unless the Commission shall have approved a price regulation plan pursuant to G.S. 62-133.5(a) for a local exchange company with an effective date prior to July 1, 1996. In the event a price regulation plan becomes effective prior to July 1, 1996, the Commission is authorized to permit the provision of local exchange or exchange access service by a competing local provider in the franchised area of such local exchange company.

The Commission is authorized to adopt rules it finds necessary (i) to provide for the reasonable interconnection of facilities between all providers of telecommunications services; (ii) to determine when necessary the rates for such interconnection; (iii) to provide for the reasonable unbundling of essential facilities where technically and economically feasible; (iv) to provide for the transfer of telephone numbers between providers in a manner that is technically and economically reasonable; (v) to provide for the continued development and encouragement of universally available telephone service at reasonably affordable rates; and (vi) to carry out the provisions of this subsection in a manner consistent with the public interest, which will include a consideration of whether and to what extent resale should be permitted. In adopting rules to establish an appropriate definition of universal service, the Commission shall consider evolving trends in telecommunications services and the need for consumers to have access to high-speed

communications networks, the Internet, and other services to the extent that those services provide social benefits to the public at a reasonable cost.

Local exchange companies and competing local providers shall negotiate the rates for local interconnection. In the event that the parties are unable to agree within 90 days of a bona fide request for interconnection on appropriate rates for interconnection, either party may petition the Commission for determination of the appropriate rates for interconnection. The Commission shall determine the appropriate rates for interconnection within 180 days from the filing of the petition.

Except as provided in subsections (f4) and (f5) of this section, each local exchange company shall be the universal service provider (carrier of last resort) in the area in which it is certificated to operate on July 1, 1995. Each local exchange company or telecommunications service provider with carrier of last resort responsibility may satisfy its carrier of last resort obligation by using any available technology. In continuing this State's commitment to universal service, the Commission shall, by December 31, 1996, adopt interim rules that designate the person that should be the universal service provider and to determine whether universal service should be funded through interconnection rates or through some other funding mechanism. At a time determined by the Commission to be in the public interest, the Commission shall conduct an investigation for the purpose of adopting final rules concerning the provision of universal services, and whether universal service should be funded through interconnection rates or through some other funding mechanism, and, consistent with the provisions of subsections (f4) and (f5) of this section, the person that should be the universal service provider. A local exchange company that has elected to be subject to alternative regulation under G.S. 62-133.5(m) does not have any carrier of last resort obligations.

The Commission shall make the determination required pursuant to this subsection in a manner that furthers this State's policy favoring universally available telephone service at reasonable rates.

(f2) The provisions of subsection (f1) of this section shall not be applicable to franchised areas within the State that are being served by local exchange companies with 200,000 access lines or less located within the State, and it is further provided that such local exchange company providing service to 200,000 access lines or less shall not be subject to the regulatory reform procedures outlined under the terms of G.S. 62-133.5(a) or permitted to compete in territory outside of its franchised area for local exchange and exchange access services until such time as the franchised area is opened to competing local providers as provided for in this subsection. Upon the filing of an application by a local exchange company with 200,000 access lines or less for regulation under the provisions of G.S. 62-133.5(a), the Commission shall apply the provisions of that section to such local exchange company, but only upon the condition that the provisions of subsection (f1) of this section are to be applicable to the franchised area and local exchange and exchange access services offered by such a local exchange company.

(f3) The provisions of subsection (f1) of this section shall not be applicable to areas served by telephone membership corporations formed and existing under Article 4 of Chapter 117 of the General Statutes and exempt from regulation as public utilities, pursuant to G.S. 62-3(23)d. and G.S. 117-35. To the extent a telephone membership corporation has carrier of last resort obligations, it may fulfill those obligations using any available technology.

(f4) When any telecommunications service provider: (i) enters into an agreement to provide local exchange service for a subdivision or other area where access to right-of-way for the provision of local exchange service by other telecommunications service providers has not been granted coincident with any other grant of access by the property owner; or (ii) enters into an agreement after July 1, 2008, to provide communications service that otherwise precludes the local

exchange company from providing communications service for the subdivision or other area, the local exchange company is not obligated to provide basic local exchange telephone service or any other communications service to customers in the subdivision or other area. In each of the foregoing instances, the telecommunications service provider shall be the provider in the subdivision or other area under the terms of the agreement and applicable law. The local exchange company for the franchise area or territory in which the subdivision or other area is located shall be relieved of any universal service provider obligation for that subdivision or other area. In that case, the local exchange company and all other telecommunications service providers shall retain the option, but not the obligation, to serve customers in the subdivision or other area. The local exchange company shall provide written notification to the appropriate State agency that the local exchange company is no longer the universal service provider for the subdivision or other area. The appropriate State agency shall retain the right to redesignate a local exchange company or telecommunications service provider as the universal service provider in accordance with the provisions of subsection (f5) of this section. Any person that enters into an agreement with a telecommunications service provider to provide local exchange service for a subdivision or other area as described in this subsection shall notify a purchaser of real property within the subdivision or other area of the agreement.

For any circumstance not described in this subsection, a local exchange company may be granted a waiver of its carrier of last resort obligation in a subdivision or other area by the appropriate State agency based upon a showing by the local exchange company of all of the following:

(1) Providing service in the subdivision or area would be inequitable or unduly burdensome.
(2) One or more alternative providers of local exchange service exist.
(3) Granting the waiver is in the public interest.

(f5) If the appropriate State agency finds, upon hearing, that the telecommunications service provider serving the subdivision or other area pursuant to subsection (f4) of this section, or its successor in interest, is no longer willing or no longer able to provide adequate services to the subdivision or other area, the appropriate State agency may redesignate the local exchange company for the franchise area or territory in which the subdivision or other area is located, or another telecommunications service provider, to be the universal service provider for the subdivision or other area. If the redesignated local exchange company is subject to price regulation or other alternative regulation under G.S. 62-133.5, it may treat the costs incurred in extending its facilities into the subdivision or other area as exogenous to that form of regulation and may, subject to providing written notice to the Commission, adjust its rates to recover these costs on an equitable basis from its customers whose rates are subject to regulation under G.S. 62-133.5. Any such action shall be subject to review by the Commission in a complaint proceeding initiated by any interested party pursuant to G.S. 62-73. If the redesignated local exchange company is not subject to price regulation or other alternative regulation under G.S. 62-133.5, it may recover the costs incurred in extending its facilities into the subdivision or other area in the form of a surcharge, subject to Commission approval, spread equitably among all of its customers in a proceeding under G.S. 62-136(a), without having to file a general rate case proceeding. During the period that a telecommunications service provider is serving as a universal service provider and prior to the redesignation of a local exchange company as the universal service provider as provided for herein, for the purposes of the appropriate State agency's periodic certification to the Federal Communications Commission in matters regarding eligible telecommunications carrier status, a

local company's status shall not be deemed to affect its eligibility to be an eligible telecommunications carrier, and the appropriate State agency shall so certify.

(f6) For purposes of subsections (f4) and (f5) of this section, the following definitions are applicable:

(1) "Appropriate State agency" means the Commission for purposes of any subdivision or other area within the franchise area of a local exchange company, and the Rural Electrification Authority for the purposes of any subdivision or other area within the franchise area or territory of a telephone membership corporation.

(1a) "Communications service" means either voice, video, or data service through any technology.

(2) "Local exchange company" means a local exchange company subject to price regulation, or other alternative regulation or rate base regulation by the Commission or a telephone membership corporation organized under G.S. 117-30.

(3) "Telecommunications service provider" means a competing local provider, or any other person providing local exchange service by means of voice-over-Internet protocol, wireless, power line, satellite, or other nontraditional means, whether or not regulated by the Commission, but the term shall not include local exchange companies or telephone membership corporations.

(g) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, for the purpose of encouraging water conservation, the Commission may, consistent with the public interest, adopt procedures that allow (i) a lessor of any leased residential premises, as that term is defined under G.S. 42-59(3), to charge for the costs of providing water or sewer service to persons who occupy the leased premises, (ii) an owners' association, as that term is defined under G.S. 47F-1-103(3), to charge for the costs of providing water or sewer service to persons who occupy townhomes within a planned community, as that term is defined under G.S. 47F-1-103(23), and (iii) a unit owners' association, as that term is defined under G.S. 47C-1-103(3), to charge for the costs of providing water or sewer service to persons who occupy a condominium, as that term is defined under G.S. 47C-1-103(7). For purposes of this subsection, the term "townhome" means a single-family dwelling unit constructed in a group of three or more attached units. The following provisions shall apply:

(1) Except as provided in subdivisions (1a), (1b), and (1c) of this subsection, all charges for water or sewer service shall be based on the user's metered consumption of water, which shall be determined by metered measurement of all water consumed. The rate charged by the lessor, owners' association, or unit owners' association, as applicable, shall not exceed the unit consumption rate charged by the supplier of the service.

(1a) If the leased premises are contiguous dwelling units built prior to 1989, and the lessor determines that the measurement of the lessee's total water usage is impractical or not economical, the lessor may allocate the cost for water and sewer service to the lessee using equipment that measures the lessee's hot water usage. In that case, each lessee shall be billed a percentage of the lessor's water and sewer costs for water usage in the dwelling units based upon the hot water used in the lessee's dwelling unit. The percentage of total water usage allocated

for each dwelling unit shall be equal to that dwelling unit's individually submetered hot water usage divided by all submetered hot water usage in all dwelling units. The following conditions apply to billing for water and sewer service under this subdivision:

a. A lessor shall not utilize a ratio utility billing system or other allocation billing system that does not rely on individually submetered hot water usage to determine the allocation of water and sewer costs.

b. The lessor shall not include in a lessee's bill the cost of water and sewer service used in common areas or water loss due to leaks in the lessor's water mains. A lessor shall not bill or attempt to collect for excess water usage resulting from a plumbing malfunction or other condition that is not known to the lessee or that has been reported to the lessor.

c. All equipment used to measure water usage shall comply with guidelines promulgated by the American Water Works Association.

d. The lessor shall maintain records for a minimum of 12 months that demonstrate how each lessee's allocated costs were calculated for water and sewer service. Upon advanced written notice to the lessor, a lessee may inspect the records during reasonable business hours.

e. Bills for water and sewer service sent by the lessor to the lessee shall contain all the following information:

1. The amount of water and sewer services allocated to the lessee during the billing period.
2. The method used to determine the amount of water and sewer services allocated to the lessee.
3. Beginning and ending dates for the billing period.
4. The past-due date, which shall not be less than 25 days after the bill is mailed.
5. A local or toll-free telephone number and address that the lessee can use to obtain more information about the bill.

(1b) Notwithstanding the provisions of subdivisions (1), (1a), and (1c) of this subsection, if the Commission approves a flat rate to be charged by a water or sewer utility for the provision of water or sewer services to contiguous dwelling units, the lessor, owners' association, or unit owners' association, as applicable, may pass through and charge the tenants or occupants of the contiguous dwelling units the same flat rate for water or sewer services, rather than a rate based on metered consumption, and an administrative fee as authorized in subdivision (2) of this subsection. Bills for water and sewer service sent by the lessor, owners' association, or unit owners' association, as applicable, to the lessee or occupant shall contain all the information required by sub-sub-subdivisions e.2. through e.5. of subdivision (1a) of this subsection.

(1c) The lessor may equally divide the amount of the water and sewer bill for a unit among all the lessees in the unit and may send one bill to each lessee. The amount charged shall be prorated when a lessee has not leased the unit for the same number of days as the other lessees in the unit during the billing period. Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in Rule 18-6 for water service

and, when applicable, a late fee in an amount determined by the Commission. The lessor shall not charge the cost of water and sewer from any other unit or common area in a lessee's bill sent pursuant to this subdivision.

(2) The lessor, owners' association, or unit owners' association, as applicable, may charge a reasonable administrative fee for providing water or sewer service not to exceed the maximum administrative fee authorized by the Commission.

(3) The Commission shall adopt rules to implement this subsection.

(4) The Commission shall develop an application that lessors, owners' associations, or unit owners' associations, as applicable, must submit for authority to charge for water or sewer service. The form shall include all of the following:

a. A description of the applicant and the property to be served.
b. A description of the proposed billing method and billing statements.
c. The schedule of rates charged to the applicant by the supplier.
d. The schedule of rates the applicant proposes to charge the applicant's customers.
e. The administrative fee proposed to be charged by the applicant.
f. The name of and contact information for the applicant and its agents.
g. The name of and contact information for the supplying water or sewer system.
h. Any additional information that the Commission may require.

(4a) The Commission shall develop an application that lessors, owners' associations, or unit owners' associations, as applicable, must submit for authority to charge for water or sewer service at single-family dwellings that allows the applicant to serve multiple dwellings in the State, subject to an approval by the Commission. The form shall include all of the following:

a. A description of the applicant and a listing of the address of all the properties to be served. An updated listing of addresses served by the applicant shall be provided to the Commission annually.
b. A description of the proposed billing method and billing statements.
c. The administrative fee proposed to be charged by the applicant.
d. The name and contact information for the applicant and its agents.
e. Any additional information the Commission may require.

(5) The Commission shall approve or disapprove an application within 30 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 30 days, the application shall be deemed approved.

(6) A provider of water or sewer service under this subsection may increase the rate for service so long as the rate does not exceed the unit consumption rate charged by the supplier of the service. A provider of water or sewer service under this subsection may change the administrative fee so long as the administrative fee does not exceed the maximum administrative fee authorized by the Commission. In order to change the rate or administrative fee, the provider shall file a notice of revised schedule of rates and fees with the Commission. The Commission may prescribe the form by which the provider files a notice of a revised schedule of rates and fees under this subsection. The form shall include all of the following:

a. The current schedule of the unit consumption rates charged by the provider.
b. The schedule of rates charged by the supplier to the provider that the provider proposes to pass through to the provider's customers.
c. The schedule of the unit consumption rates proposed to be charged by the provider.
d. The current administrative fee charged by the provider, if applicable.
e. The administrative fee proposed to be charged by the provider.

(7) A notification of revised schedule of rates and fees shall be presumed valid and shall be allowed to become effective upon 14 days notice to the Commission, unless otherwise suspended or disapproved by order issued within 14 days after filing.

(8) Notwithstanding any other provision of this Chapter, the Commission shall determine the extent to which the services shall be regulated and, to the extent necessary to protect the public interest, regulate the terms, conditions, and rates that may be charged for the services. Nothing in this subsection shall be construed to alter the rights, obligations, or remedies of persons providing water or sewer services and their customers under any other provision of law.

(9) A provider of water or sewer service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36 or to furnish a bond pursuant to G.S. 62-110.3.

(h) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of any leased residential premises, as that term is defined under G.S. 42-59(3), that has individually metered units for electric service in the lessor's name to charge for the actual costs of providing electric service to each lessee. The following provisions shall apply to the charges authorized under this subsection:

(1) The lessor shall equally divide the actual amount of the individual electric service bill for a unit among all the lessees in the unit and shall send one bill to each lessee. The amount charged shall be prorated when a lessee has not leased the unit for the same number of days as the other lessees in the unit during the billing period. Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in Rule 18-6 for water service and, when applicable, a late fee in an amount determined by the Commission. The lessor shall not charge the cost of electricity from any other unit or common area in a lessee's bill. The lessor may, at the lessor's option, pay any portion of any bill sent to a lessee.

(2) A lessor who charges for electric service under this subsection is solely responsible for the prompt payment of all bills rendered by the electric utility providing service to the leased premises and is the customer of the electric utility subject to all rules, regulations, tariffs, riders, and service regulations associated with the provision of electric service to retail customers of the utility.

(3) The lessor shall maintain records for a minimum of 36 months that demonstrate how each lessee's allocated costs were calculated for electric service. A lessee may inspect these records, including the actual per unit public utility billings,

during reasonable business hours and may obtain copies of the records for a reasonable copying fee.

(4) Bills for electric service sent by the lessor to the lessee shall contain all of the following information:
   a. When the lessor of a residential building or multiunit apartment complex has a separate lease for each bedroom in the unit, the bill charged by the electric supplier for the unit as a whole and the amount of charges allocated to the lessee during the billing period.
   b. The name of the electric power supplier providing electric service to the leased premises.
   c. Beginning and ending dates for the usage period and, if provided by the electric supplier, the date the meter was read for that usage period.
   d. The past-due date, which shall not be less than 25 days after the bill is mailed to the lessee.
   e. A local or toll-free telephone number and address of the lessor that the lessee can use to obtain more information about the bill.
   f. The amount of any administrative fee and late fee approved by the Commission and included in the bill.
   g. A statement of the lessee's right to address questions about the bill to the lessor and the lessee's right to file a complaint with, or otherwise seek recourse from, the Commission if the lessee cannot resolve an electric service billing dispute with the lessor.

(5) The Commission shall develop an application that lessors must submit for Commission approval to charge for electric service as provided in this section. The form shall include all of the following:
   a. A description of the lessor and the property to be served.
   b. A description of the proposed billing method and billing statements.
   c. The administrative fee and late payment fee, if any, proposed to be charged by the lessor.
   d. The name of and contact information for the lessor and the lessor's agents.
   e. The name of and contact information for the supplier of electric service to the lessor's rental property.
   f. A copy of the lease forms used by the lessor for lessees who are billed for electric service pursuant to this subsection.
   g. Any additional information that the Commission may require.

(6) The Commission shall approve or disapprove an application within 60 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 60 days, the application shall be deemed approved.

(7) A lessor who charges for electric service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36.

(7a) An applicant may submit for authority to charge for electric service for more than one property in a single application. Information relating to all properties covered by the application need only be provided once in the application.

(8) The Commission shall adopt rules to implement the provisions of this subsection.

(i) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of any leased residential premises, as that term is defined under G.S. 42-59(3), that has individually metered units for natural gas service in the lessor's name to charge for the actual costs of providing natural gas service to each lessee. The following provisions shall apply to the charges authorized under this subsection:

(1) The lessor shall equally divide the actual amount of the individual natural gas service bill for a unit among all the lessees in the unit and shall send one bill to each lessee. The amount charged shall be prorated when a lessee has not leased the unit for the same number of days as the other lessees in the unit during the billing period. Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in Rule 18-6 for water service and, when applicable, a late fee in an amount determined by the Commission. The lessor shall not charge the cost of natural gas service from any other unit or common area in a lessee's bill. The lessor may, at the lessor's option, pay any portion of any bill sent to a lessee.

(2) A lessor who charges for natural gas service under this subsection is solely responsible for the prompt payment of all bills rendered by the natural gas utility providing service to the leased premises and is the customer of the natural gas utility subject to all rules, regulations, tariffs, riders, and service regulations associated with the provision of natural gas service to retail customers of the utility.

(3) The lessor shall maintain records for a minimum of 36 months that demonstrate how each lessee's allocated costs were calculated for natural gas service. A lessee may inspect these records, including the actual per unit public utility billings, during reasonable business hours and may obtain copies of the records for a reasonable copying fee.

(4) Bills for natural gas service sent by the lessor to the lessee shall contain all of the following information:

a. When the lessor of a residential building or multiunit apartment complex has a separate lease for each bedroom in the unit, the bill charged by the natural gas supplier for the unit as a whole and the amount of charges allocated to the lessee during the billing period.

b. The name of the natural gas supplier providing natural gas service to the leased premises.

c. Beginning and ending dates for the usage period and, if provided by the natural gas supplier, the date the meter was read for that usage period.

d. The past-due date, which shall not be less than 25 days after the bill is mailed to the lessee.

e. A local or toll-free telephone number and address that the lessee can use to obtain more information about the bill.

f. The amount of any administrative fee and late fee approved by the Commission and included in the bill.

g. A statement of the lessee's right to address questions about the bill to the lessor and the lessee's right to file a complaint with, or otherwise seek recourse from, the Commission if the lessee cannot resolve a natural gas service billing dispute with the lessor.

(5) The Commission shall develop an application that lessors must submit for Commission approval to charge for natural gas service as provided in this section. The form shall include all of the following:

a. A description of the lessor and the property to be served.
b. A description of the proposed billing method and billing statements.
c. The administrative fee and late payment fee, if any, proposed to be charged by the lessor.
d. The name of and contact information for the lessor and the lessor's agents.
e. The name of and contact information for the supplier of natural gas service to the lessor's rental property.
f. A copy of the lease forms used by the lessor for lessees who are billed for natural gas service pursuant to this subsection.
g. Any additional information that the Commission may require.

(6) The Commission shall approve or disapprove an application within 60 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 60 days, the application shall be deemed approved.

(7) A lessor who charges for natural gas service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36.

(7a) An applicant may submit for authority to charge for natural gas service for more than one property in a single application. Information relating to all properties covered by the application need only be provided once in the application.

(8) The Commission shall adopt rules to implement the provisions of this subsection.

(j) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, allow a lessor of a multiunit apartment building who has obtained the approval of the Commission for the use of a master meter pursuant to G.S. 143-151.42 to charge each tenant for the electricity or natural gas used by a central system based on each tenant's metered or measured share of the electricity or natural gas used by the central system. In the case of electricity used by a central system, the provisions of subdivisions (2) through (8) of subsection (h) of this section shall apply. In the case of natural gas used by a central system, the provisions of subdivisions (2) through (8) of subsection (i) of this section shall apply. (1931, c. 455; 1933, c. 134, s. 8; 1941, c. 97; 1963, c. 1165, s. 1; 1983 (Reg. Sess., 1984), c. 1043, s. 2; 1985, c. 676, s. 9; c. 680; 1987, c. 445, s. 1; 1989, c. 451, ss. 1, 2; 1995, c. 27, s. 4; 1995 (Reg. Sess., 1996), c. 753, s. 1; 1997-207, s. 1; 1998-180, ss. 1, 2; 1998-212, s. 15.8B; 1999-112, s. 1; 2001-252, s. 1; 2001-502, s. 1; 2002-14, s. 1; 2003-99, s. 1; 2003-173, s. 1; 2004-143, s. 7; 2005-385, ss. 1, 2; 2009-202, s. 1; 2009-279, s. 1; 2011-52, s. 1; 2011-252, s. 4; 2017-10, s. 2.2(b); 2017-172, s. 2; 2019-56, s. 1; 2021-23, s. 27(b); 2022-6, s. 20.13(a); 2023-137, s. 23.)

**§ 62-110.1. Certificate for construction of generating facility; analysis of long-range needs for expansion of facilities; ongoing review of construction costs; inclusion of approved construction costs in rates.**

(a) Notwithstanding the proviso in G.S. 62-110, no public utility or other person shall begin the construction of any steam, water, or other facility for the generation of electricity to be directly or indirectly used for the furnishing of public utility service, even though the facility be for furnishing the service already being rendered, without first obtaining from the Commission a certificate that public convenience and necessity requires, or will require, such construction.

(b) For the purpose of subsections (a) and (d) of this section, "public utility" shall include any electric membership corporation operating within this State, and the term "public utility service" shall include the service rendered by any such electric membership corporation.

(c) The Commission shall develop, publicize, and keep current an analysis of the long-range needs for expansion of facilities for the generation of electricity in North Carolina, including its estimate of the probable future growth of the use of electricity, the probable needed generating reserves, the extent, size, mix and general location of generating plants and arrangements for pooling power to the extent not regulated by the Federal Energy Regulatory Commission and other arrangements with other utilities and energy suppliers to achieve maximum efficiencies for the benefit of the people of North Carolina, and shall consider such analysis in acting upon any petition by any utility for construction. In developing such analysis, the Commission shall, as it deems necessary, confer and consult with the public utilities in North Carolina, the utilities commissions or comparable agencies of neighboring states, the Federal Energy Regulatory Commission and other agencies having relevant information and may participate as it deems useful in any joint boards investigating generating plant sites or the probable need for future generating facilities. In addition to such reports as public utilities may be required by statute or rule of the Commission to file with the Commission, any such utility in North Carolina may submit to the Commission its proposals as to the future needs for electricity to serve the people of the State or the area served by such utility, and insofar as practicable, each such utility, the Public Staff, intervenors, and the Attorney General may attend or be represented at any formal conference conducted by the Commission in developing a plan for the future requirements of electricity for North Carolina or this region. In the course of making the analysis and developing the plan, the Commission shall conduct a public hearing on such plan in the year a biennial integrated resource plan is filed and may hold a public hearing on such plan in a year that an annual update of an integrated resource plan is filed. Each year, the Commission shall submit to the Governor and to the appropriate committees of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, and the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources a report of its analysis and plan, the progress to date in carrying out such plan, and the program of the Commission for the ensuing year in connection with such plan.

(d) In acting upon any petition for the construction of any facility for the generation of electricity, the Commission shall take into account the applicant's arrangements with other electric utilities for interchange of power, pooling of plant, purchase of power and other methods for providing reliable, efficient, and economical electric service.

(e) As a condition for receiving a certificate, the applicant shall file an estimate of construction costs in such detail as the Commission may require. The Commission shall hold a public hearing on each application and no certificate shall be granted unless the Commission has

approved the estimated construction costs and made a finding that construction will be consistent with the Commission's plan for expansion of electric generating capacity. A certificate for the construction of generating facility by an electric public utility, as that term is defined by G.S. 62-110.9, shall be granted only if the applicant demonstrates and the Commission finds that the facility is part of the least cost path to achieve compliance with the authorized carbon reduction goals in G.S. 62-110.9, will maintain or improve upon the adequacy and reliability of the existing grid, and that the construction and operation of the facility is in the public interest. In making its determination, the Commission shall consider resource and fuel diversity and reasonably anticipated future operating costs. Once the Commission grants a certificate, no public utility shall cancel construction of a generating unit or facility without approval from the Commission based upon a finding that the construction is no longer in the public interest.

(e1) Upon the request of the public utility or upon its own motion, the Commission may review the certificate to determine whether changes in the probable future growth of the use of electricity indicate that the public convenience and necessity require modification or revocation of the certificate. If the Commission finds that completion of the generating facility is no longer in the public interest, the Commission may modify or revoke the certificate.

(f) The public utility shall submit a progress report and any revision in the cost estimate for the construction approved under subsection (e) of this section during each year of construction. Upon the request of the public utility or upon its own motion, the Commission may conduct an ongoing review of construction of the facility as the construction proceeds. If the Commission approves any revised construction cost estimate and finds that incurrence of the cost of that portion of the construction of the facility under review was reasonable and prudent, the certificate shall remain in effect. If the Commission disapproves any part of the revised cost estimate or finds that the incurrence of the cost of that portion of the construction of the facility then under review was unreasonable or imprudent, the Commission may modify or revoke the certificate.

(f1) The public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the actual costs it has incurred in constructing a generating facility in reliance on a certificate issued under this section as provided in this subsection, unless new evidence is discovered (i) that could not have been discovered by due diligence at an earlier time and (ii) that reasonably tends to show that a previous determination by the Commission that a material item of cost was just and reasonable and prudently incurred was erroneous. If the Commission determines that evidence has been submitted that meets the requirements of this subsection, the public utility shall have the burden of proof to demonstrate that the material item of cost was in fact just and reasonable and prudently incurred.

(1) When a facility has been completed, and the construction of the facility has been subject to ongoing review under subsection (f) of this section, the reasonable and prudent costs of construction approved by the Commission during the ongoing review shall be included in the public utility's rate base without further review by the Commission.

(2) If a facility has not been completed, and the construction of the facility has been subject to ongoing review under subsection (f) of this section, the reasonable and prudent costs of construction approved by the Commission during the ongoing review shall be included in the public utility's rate base without further review by the Commission.

(3) If a facility is under construction or has been completed and the construction of the facility has not been subject to ongoing review under subsection (f) of this

section, the costs of construction shall be included in the public utility's rate base if the Commission finds that the incurrence of these costs is reasonable and prudent.

(f2) If the construction of a facility is cancelled, including cancellation as a result of modification or revocation of the certificate under subsection (e1) of this section, and the construction of the facility has been subject to ongoing review under subsection (f), absent newly discovered evidence (i) that could not have been discovered by due diligence at an earlier time and (ii) that reasonably tends to show that a previous determination by the Commission that a material item of cost was just and reasonable and prudently incurred was erroneous, the public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the costs of construction approved by the Commission during the ongoing review that were actually incurred prior to cancellation, amortized over a reasonable time as determined by the Commission. In the general rate case, the Commission shall make any adjustment that may be required because costs of construction previously added to the utility's rate base pursuant to subsection (f1) of this section are removed from the rate base and recovered in accordance with this subsection. Any costs of construction actually incurred, but not previously approved by the Commission, shall be recovered only if they are found by the Commission to be reasonable and prudent. If the Commission determines that evidence has been submitted that meets the requirements of this subsection, the public utility shall have the burden of proof to demonstrate that the material item of cost was just and reasonable and prudently incurred.

(f3) If the construction of a facility is cancelled, including cancellation as a result of the modification or revocation of the certificate under subsection (e1) of this section, and the construction of the facility has not been subject to ongoing review under subsection (f) of this section, the public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the costs of construction that were actually incurred prior to the cancellation and are found by the Commission to be reasonable and prudent, amortized over a reasonable time as determined by the Commission. In the general rate case, the Commission shall make any adjustment that may be required because costs of construction previously added to the utility's rate base pursuant to subsection (f1) of this section are removed from the rate base and recovered in accordance with this subsection.

(g) The certification requirements of this section shall not apply to (i) a nonutility-owned generating facility fueled by clean energy resources under two megawatts in capacity; (ii) to persons who construct an electric generating facility primarily for that person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation; or (iii) a solar energy facility or a community solar energy facility, as provided by and subject to the limitations of Article 6B of this Chapter. However, such persons shall be required to report the proposed construction of the facility and the completion of the facility to the Commission and the interconnecting public utility. Such reports shall be for informational purposes only and shall not require action by the Commission or the Public Staff.

(h) Expired pursuant to its own terms, effective January 1, 2011. (1965, c. 287, s. 2; 1975, c. 780, s. 1; 1979, c. 652, s. 2; 2007-397, s. 6; 2009-390, s. 1(b); 2013-187, s. 2; 2015-241, s. 14.30(u); 2015-264, s. 11; 2017-57, s. 14.1(o); 2017-192, s. 6(c); 2021-23, s. 12; 2023-138, s. 2.)

**§ 62-110.2. Electric service areas outside of municipalities.**

(a) As used in this section, unless the context otherwise requires, the term:

(1) "Premises" means the building, structure, or facility to which electricity is being or is to be furnished; provided, that two or more buildings, structures, or facilities which are located on one tract or contiguous tracts of land and are utilized by one electric consumer for commercial, industrial, institutional, or governmental purposes, shall together constitute one "premises," except that any such building, structure, or facility shall not, together with any other building, structure, or facility, constitute one "premises" if the electric service to it is separately metered and the charges for such service are calculated independently of charges for service to any other building, structure, or facility; and

(2) "Line" means any conductor for the distribution or transmission of electricity, other than

a. In the case of overhead construction, a conductor from the pole nearest the premises of a consumer to such premises, or a conductor from a line tap to such premises, and

b. In the case of underground construction, a conductor from the transformer (or junction point, if there be one) nearest the premises of a consumer to such premises.

(3) "Electric supplier" means any public utility furnishing electric service or any electric membership corporation.

(b) In areas outside of municipalities, electric suppliers shall have rights and be subject to restrictions as follows:

(1) Every electric supplier shall have the right to serve all premises being served by it, or to which any of its facilities for service are attached, on April 20, 1965.

(2) Every electric supplier shall have the right, subject to subdivision (4) of this subsection, to serve all premises initially requiring electric service after April 20, 1965, which are located wholly within 300 feet of such electric supplier's lines as such lines exist on April 20, 1965, except premises which, on said date, are being served by another electric supplier or to which any of another electric supplier's facilities for service are attached.

(3) Every electric supplier shall have the right, subject to subdivision (4) of this subsection, to serve all premises initially requiring electric service after April 20, 1965, which are located wholly within 300 feet of lines that such electric supplier constructs after April 20, 1965, to serve consumers that it has the right to serve, except premises located wholly within a service area assigned to another electric supplier pursuant to subsection (c) hereof.

(4) Any premises initially requiring electric service after April 20, 1965, which are located wholly or partially within 300 feet of the lines of one electric supplier and also wholly or partially within 300 feet of the lines of another electric supplier, as each of such supplier's lines exist on April 20, 1965, or as extended to serve consumers that the supplier has the right to serve, may be served by such one of said electric suppliers which the consumer chooses, and any electric supplier not so chosen by the consumer shall not thereafter furnish service to such premises.

(5) Any premises initially requiring electric service after April 20, 1965, which are not located wholly within 300 feet of the lines of any electric supplier and are

not located partially within 300 feet of the lines of two or more electric suppliers may be served by any electric supplier which the consumer chooses, unless such premises are located wholly or partially within an area assigned to an electric supplier pursuant to subsection (c) hereof, and any electric supplier not so chosen by the consumer shall not thereafter furnish service to such premises.

(6) Any premises initially requiring electric service after April 20, 1965, which are located partially within a service area assigned to one electric supplier and partially within a service area assigned to another electric supplier pursuant to subsection (c) hereof, or are located partially within a service area assigned to one electric supplier pursuant to subsection (c) hereof and partially within 300 feet of the lines of another electric supplier, as such lines exist on April 20, 1965, or as extended to serve consumers it has the right to serve, may be served by such one of said electric suppliers which the consumer chooses, and the electric supplier not so chosen shall not thereafter furnish service to such premises.

(7) Any premises initially requiring electric service after April 20, 1965, which are located only partially within a service area assigned to one electric supplier pursuant to subsection (c) hereof and are located wholly outside the service areas assigned to other electric suppliers and are located wholly more than 300 feet from other electric suppliers' lines, may be served by any electric supplier which the consumer chooses, and any electric supplier not so chosen by the consumer shall not thereafter furnish service to such premises.

(8) Every electric supplier shall have the right to serve all premises located wholly within the service area assigned to it pursuant to subsection (c) hereof.

(9) No electric supplier shall furnish temporary electric service for the construction of premises which it would not have the right to serve under this subsection if such premises were already constructed. The construction of lines for, and the furnishing of, temporary service for the construction of premises which any other electric supplier, if chosen by the consumer, would have the right to serve if such premises were already constructed, shall not impair the right of such other electric supplier to furnish service to such premises after the construction thereof, if then chosen by the consumer; nor, unless the consumer chooses to have such premises served by the supplier which furnished the temporary service, shall the furnishing of such temporary service or the construction of a line therefor impair the right of any other electric supplier to furnish service to any other premises which, without regard to the construction of such temporary service line, it has the right to serve.

(10) No electric supplier shall furnish electric service to any premises in this State outside the limits of any incorporated city or town except as permitted by this section; provided, that nothing in this section shall restrict the right of an electric supplier to furnish electric service to itself or to exchange or interchange electric energy with, purchase electric energy from or sell electric energy to any other electric supplier.

(c) (1) In order to avoid unnecessary duplication of electric facilities, the Commission is authorized and directed to assign, as soon as practicable after January 1, 1966, to electric suppliers all areas, by adequately defined boundaries, that are outside

the corporate limits of municipalities and that are more than 300 feet from the lines of all electric suppliers as such lines exist on the dates of the assignments; provided, that the Commission may leave unassigned any area in which the Commission, in its discretion, determines that the existing lines of two or more electric suppliers are in such close proximity that no substantial avoidance of duplication of facilities would be accomplished by assignment of such area. The Commission shall make assignments of areas in accordance with public convenience and necessity, considering, among other things, the location of existing lines and facilities of electric suppliers and the adequacy and dependability of the service of electric suppliers, but not considering rate differentials among electric suppliers.

(2) The Commission, upon agreement of the affected electric suppliers, is authorized to reassign to one electric supplier any area or portion thereof theretofore assigned to another; and the Commission, notwithstanding the lack of such agreement, is authorized to reassign to one electric supplier any area or portion thereof theretofore assigned to another, except premises being served by the other electric supplier or to which any of its facilities for service are attached and except such portions of such area as are within 300 feet of the other electric supplier's lines, upon finding that such reassignment is required by public convenience and necessity. In determining whether public convenience and necessity requires such reassignment, the Commission shall consider, among other things, the adequacy and dependability of the service of the affected electric suppliers, but shall not consider rate differentials between such electric suppliers.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section:

(1) Any electric supplier may furnish electric service to any consumer who desires service from such electric supplier at any premises being served by another electric supplier, or at premises which another electric supplier has the right to serve pursuant to other provisions of this section, upon agreement of the affected electric suppliers; and

(2) The Commission shall have the authority and jurisdiction, after notice to all affected electric suppliers and after hearing, if a hearing is requested by any affected electric supplier or any other interested party, to order any electric supplier which may reasonably do so to furnish electric service to any consumer who desires service from such electric supplier at any premises being served by another electric supplier, or at premises which another electric supplier has the right to serve pursuant to other provisions of this section, and to order such other electric supplier to cease and desist from furnishing electric service to such premises, upon finding that service to such consumer by the electric supplier which is then furnishing service, or which has the right to furnish service, to such premises, is or will be inadequate or undependable, or that the rates, conditions of service or service regulations, applied to such consumer, are unreasonably discriminatory.

(e) The furnishing of electric service in any area which becomes a part of any municipality after April 20, 1965, either by annexation or incorporation, (whether or not such area, or any portion thereof, shall have been assigned pursuant to subsection (c) of this section) shall be subject to the

provisions of Part 2, Article 16 of Chapter 160A of the General Statutes, and any provisions of this section inconsistent with said Article shall not be applicable within such area after the effective date of such annexation or incorporation. (1965, c. 287, s. 5; 1989 (Reg. Sess., 1990), c. 1024, s. 14.)

**§ 62-110.3. Bond required for water and sewer companies.**

(a) No franchise may be granted to any water or sewer utility company until the applicant furnishes a bond, secured with sufficient surety as approved by the Commission, in an amount not less than twenty-five thousand dollars ($25,000). The bond shall be conditioned upon providing adequate and sufficient service within all the applicant's service areas, including those for which franchises have previously been granted, shall be payable to the Commission, and shall be in a form acceptable to the Commission. In setting the amount of a bond, the Commission shall consider and make appropriate findings as to the following:

(1) Whether the applicant holds other water or sewer franchises in this State, and if so its record of operation,
(2) The number of customers the applicant now serves and proposes to serve,
(3) The likelihood of future expansion needs of the service,
(4) If the applicant is acquiring an existing company, the age, condition, and type of the equipment, and
(5) Any other relevant factors, including the design of the system.

Any interest earned on a bond shall be payable to the water or sewer company that posted the bond.

(b) Notwithstanding the provisions of G.S. 62-110(a) and subsection (a) of this section, no water or sewer utility shall extend service into territory contiguous to that already occupied without first having advised the Commission of such proposed extension. Upon notification, the Commission shall require the utility to furnish an appropriate bond, taking into consideration both the original service area and the proposed extension. This subsection shall apply to all service areas of water and sewer utilities without regard to the date of the issuance of the franchise.

(c) The utility, the Public Staff, the Attorney General, and any other party may, at any time after the amount of a bond is set, apply to the Commission to raise or lower the amount based on changed circumstances.

(d) The appointment of an emergency operator, either by the superior court in accordance with G.S. 62-118(b) or by the Commission in accordance with G.S. 62-116(b), operates to forfeit the bond required by this section. The court or Commission, as appropriate, shall determine the amount of money needed to alleviate the emergency and shall order that amount of the bond to be paid to the Commission as trustee for the water or sewer system.

(e) If the person who operated the system before the emergency was declared desires to resume operation of the system upon a finding that the emergency no longer exists, the Commission shall require him to post a new bond, the amount of which may be different from the previous bond. (1987, c. 490, s. 2; 1995, c. 28, s. 1; 2023-137, s. 24.)

**§ 62-110.4. Alternative Operator Services.**

The Commission shall not issue a certificate of public convenience and necessity pursuant to G.S. 62-110(b) to any interexchange carrier which the Commission has determined to have the characteristics of an alternative operator service unless the Commission shall have determined that class of interexchange carriers to be in the public interest and shall have promulgated rules to

protect the public interest and to require, at a minimum, that any such interexchange carrier assure appropriate disclosure to end-users of its identity, services, rates, charges, and fees. In order to effectuate notice to end-users, the Commission may, notwithstanding any other provision of law, require that any person owning or operating a facility for the use of the travelling or transient public which has contracted with such an interexchange carrier prominently display an end-user notice provided for in the Commission's rules. (1989, c. 366.)

**§ 62-110.5. Commission may exempt certain nonprofit and consumer-owned water or sewer utilities.**

The Commission may exempt any water or sewer utilities owned by nonprofit membership or consumer-owned corporations from regulation under this Chapter, subject to those conditions the Commission deems appropriate, if:

(1) The members or consumer-owners of the corporation elect the governing board of the corporation pursuant to the corporation's articles of incorporation and bylaws; and

(2) The Commission finds that the organization and the quality of service of the utility are adequate to protect the public interest to the extent that additional regulation is not required by the public convenience and necessity. (1997-437, s. 2.)

**§ 62-110.6. Rate recovery for construction costs of out-of-state electric generating facilities.**

(a) The Commission shall, upon petition of a public utility, determine the need for and, if need is established, approve an estimate of the construction costs and construction schedule for an electric generating facility in another state that is intended to serve retail customers in this State.

(b) The petition may be filed at any time after an application for a certificate or license for the construction of the facility has been filed in the state in which the facility will be sited. The petition shall contain a showing of need for the facility, an estimate of the construction costs, and the proposed construction schedule for the facility.

(c) The Commission shall conduct a public hearing to consider and determine the need for the facility and the reasonableness of the construction cost estimate and proposed construction schedule. If the Commission finds that the construction will be needed to assure the provision of adequate public utility service within North Carolina, the Commission shall approve a construction cost estimate and a construction schedule for the facility. In making its determinations under this section, the Commission may consider whether the state in which the facility will be sited has issued a certificate or license for construction of the facility and approved a construction cost estimate and construction schedule for the facility. The Commission shall issue its order not later than 180 days after the public utility files its petition.

(d) G.S. 62-110.1(f) shall apply to the construction cost estimate determined by the Commission to be appropriate, and the actual costs the public utility incurs in constructing the facility shall be recoverable through rates in a general rate case pursuant to G.S. 62-133 as provided in G.S. 62-110.1(f1).

(e) If the construction of a facility is cancelled, the public utility shall recover through rates in a general rate case conducted pursuant to G.S. 62-133 the costs of construction that were actually incurred prior to the cancellation and are found by the Commission to be reasonable and prudent, as provided in subsections (f2) and (f3) of G.S. 62-110.1. (2007-397, s. 7.)

**§ 62-110.7. Project development cost review for a nuclear facility.**

(a) For purposes of this section, "project development costs" mean all capital costs associated with a potential nuclear electric generating facility incurred before (i) issuance of a certificate under G.S. 62-110.1 for a facility located in North Carolina or (ii) issuance of a certificate by the host state for an out-of-state facility to serve North Carolina retail customers, including, without limitation, the costs of evaluation, design, engineering, environmental analysis and permitting, early site permitting, combined operating license permitting, initial site preparation costs, and allowance for funds used during construction associated with such costs.

(b) At any time prior to the filing of an application for a certificate to construct a potential nuclear electric generating facility, either under G.S. 62-110.1 or in another state for a facility to serve North Carolina retail customers, a public utility may request that the Commission review the public utility's decision to incur project development costs. The public utility shall include with its request such information and documentation as is necessary to support approval of the decision to incur proposed project development costs. The Commission shall hold a hearing regarding the request. The Commission shall issue an order within 180 days after the public utility files its request. The Commission shall approve the public utility's decision to incur project development costs if the public utility demonstrates by a preponderance of evidence that the decision to incur project development costs is reasonable and prudent; provided, however, the Commission shall not rule on the reasonableness or prudence of specific project development activities or recoverability of specific items of cost.

(c) All reasonable and prudent project development costs, as determined by the Commission, incurred for the potential nuclear electric generating facility shall be included in the public utility's rate base and shall be fully recoverable through rates in a general rate case proceeding pursuant to G.S. 62-133.

(d) If the public utility is allowed to cancel the project, the Commission shall permit the public utility to recover all reasonable and prudently incurred project development costs in a general rate case proceeding pursuant to G.S. 62-133 amortized over a period equal to the period during which the costs were incurred, or five years, whichever is greater. (2007-397, s. 7.)

**§ 62-110.8. Competitive procurement of renewable energy.**

(a) Each electric public utility shall file for Commission approval a program for the competitive procurement of energy and capacity from renewable energy facilities with the purpose of adding renewable energy to the State's generation portfolio in a manner that allows the State's electric public utilities to continue to reliably and cost-effectively serve customers' future energy needs. Renewable energy facilities eligible to participate in the competitive procurement shall include those facilities that use renewable energy resources identified in G.S. 62-133.8(a)(8) but shall be limited to facilities with a nameplate capacity rating of 80 megawatts (MW) or less that are placed in service after the date of the electric public utility's initial competitive procurement. Subject to the limitations set forth in subsections (b) and (c) of this section, the electric public utilities shall issue requests for proposals to procure and shall procure, energy and capacity from renewable energy facilities in the aggregate amount of 2,660 megawatts (MW), and the total amount shall be reasonably allocated over a term of 45 months beginning when the Commission approves the program. The Commission shall require the additional competitive procurement of renewable energy capacity by the electric public utilities in an amount that includes all of the following: (i) any unawarded portion of the initial competitive procurement required by this

subsection; (ii) any deficit in renewable energy capacity identified pursuant to subdivision (1) of subsection (b) of this section; and (iii) any capacity reallocated pursuant to G.S. 62-159.2.

(b) Electric public utilities may jointly or individually implement the aggregate competitive procurement requirements set forth in subsection (a) of this section and may satisfy such requirements for the procurement of renewable energy capacity to be supplied by renewable energy facilities through any of the following: (i) renewable energy facilities to be acquired from third parties and subsequently owned and operated by the soliciting public utility or utilities; (ii) renewable energy facilities to be constructed, owned, and operated by the soliciting public utility or utilities subject to the limitations of subdivision (4) of this subsection; or (iii) the purchase of renewable energy, capacity, and environmental and renewable attributes from renewable energy facilities owned and operated by third parties that commit to allow the procuring public utility rights to dispatch, operate, and control the solicited renewable energy facilities in the same manner as the utility's own generating resources. Procured renewable energy capacity, as provided for in this section, shall be subject to the following limitations:

(1) If prior to the end of the initial 45-month competitive procurement period the public utilities subject to this section have executed power purchase agreements and interconnection agreements for renewable energy capacity within their balancing authority areas that are not subject to economic dispatch or curtailment and were not procured pursuant to G.S. 62-159.2 having an aggregate capacity in excess of 3,500 megawatts (MW), the Commission shall reduce the competitive procurement aggregate amount by the amount of such exceedance. If the aggregate capacity of such renewable energy facilities is less than 3,500 megawatts (MW) at the end of the initial 45-month competitive procurement period, the Commission shall require the electric public utilities to conduct an additional competitive procurement in the amount of such deficit.

(2) To ensure the cost-effectiveness of procured new renewable energy resources, each public utility's procurement obligation shall be capped by the public utility's current forecast of its avoided cost calculated over the term of the power purchase agreement. The public utility's current forecast of its avoided cost shall be consistent with the Commission-approved avoided cost methodology.

(3) Each public utility shall submit to the Commission for approval and make publicly available at 30 days prior to each competitive procurement solicitation a pro forma contract to be utilized for the purpose of informing market participants of terms and conditions of the competitive procurement. Each pro forma contract shall define limits and compensation for resource dispatch and curtailments. The pro forma contract shall be for a term of 20 years; provided, however, the Commission may approve a contract term of a different duration if the Commission determines that it is in the public interest to do so.

(4) No more than thirty percent (30%) of an electric public utility's competitive procurement requirement may be satisfied through the utility's own development of renewable energy facilities offered by the electric public utility or any subsidiary of the electric public utility that is located within the electric public utility's service territory. This limitation shall not apply to any renewable energy facilities acquired by an electric public utility that are selected through the competitive procurement and are located within the electric public utility's service territory.

(c) Subject to the aggregate competitive procurement requirements established by this section, the electric public utilities shall have the authority to determine the location and allocated amount of the competitive procurement within their respective balancing authority areas, whether located inside or outside the geographic boundaries of the State, taking into consideration (i) the State's desire to foster diversification of siting of renewable energy resources throughout the State; (ii) the efficiency and reliability impacts of siting of additional renewable energy facilities in each public utility's service territory; and (iii) the potential for increased delivered cost to a public utility's customers as a result of siting additional renewable energy facilities in a public utility's service territory, including additional costs of ancillary services that may be imposed due to the operational or locational characteristics of a specific renewable energy resource technology, such as nondispatchability, unreliability of availability, and creation or exacerbation of system congestion that may increase redispatch costs.

(d) The competitive procurement of renewable energy capacity established pursuant to this section shall be independently administered by a third-party entity to be approved by the Commission. The third-party entity shall develop and publish the methodology used to evaluate responses received pursuant to a competitive procurement solicitation and to ensure that all responses are treated equitably. All reasonable and prudent administrative and related expenses incurred to implement this subsection shall be recovered from market participants through administrative fees levied upon those that participate in the competitive bidding process, as approved by the Commission.

(e) An electric public utility may participate in any competitive procurement process, but shall only participate within its own assigned service territory. If the public utility uses nonpublicly available information concerning its own distribution or transmission system in preparing a proposal to a competitive procurement, the public utility shall make such information available to third parties that have notified the public utility of their intention to submit a proposal to the same request for proposals.

(f) For purposes of this section, the term "balancing authority" means the entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a balancing authority area, and supports interconnection frequency in real time, and the term "balancing authority area" means the collection of generation, transmission, and loads within the metered boundaries of the balancing authority, and the balancing authority maintains load-resource balance within this area.

(g) An electric public utility shall be authorized to recover the costs of all purchases of energy, capacity, and environmental and renewable attributes from third-party renewable energy facilities and to recover the authorized revenue of any utility-owned assets that are procured pursuant to this section through an annual rider approved by the Commission and reviewed annually. Provided it is in the public interest, the authorized revenue for any renewable energy facilities owned by an electric public utility may be calculated on a market basis in lieu of cost-of-service based recovery, using data from the applicable competitive procurement to determine the market price in accordance with the methodology established by the Commission pursuant to subsection (h) of this section. The annual increase in the aggregate amount of these costs that are recoverable by an electric public utility pursuant to this subsection shall not exceed one percent (1%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year.

(h) The Commission shall adopt rules to implement the requirements of this section, as follows:

(1) Oversight of the competitive procurement program.

(2) To provide for a waiver of regulatory conditions or code of conduct requirements that would unreasonably restrict a public utility or its affiliates from participating in the competitive procurement process, unless the Commission finds that such a waiver would not hold the public utility's customers harmless.

(3) Establishment of a procedure for expedited review and approval of certificates of public convenience and necessity, or the transfer thereof, for renewable energy facilities owned by the public utility and procured pursuant to this section. The Commission shall issue an order not later than 30 days after a petition for a certificate is filed by the public utility.

(4) Establishment of a methodology to allow an electric public utility to recover its costs pursuant to subsection (g) of this section.

(5) Repealed by Session Laws 2021-165, s. 2(b), effective October 13, 2021.

(i) The requirements of this section shall not apply to an electric public utility serving fewer than 150,000 North Carolina retail jurisdictional customers as of January 1, 2017. (2017-192, s. 2(a); 2021-165, s. 2(a), (b).)

**§ 62-110.9. Requirements concerning reductions in emissions of carbon dioxide from electric public utilities.**

The Utilities Commission shall take all reasonable steps to achieve a seventy percent (70%) reduction in emissions of carbon dioxide (CO2) emitted in the State from electric generating facilities owned or operated by electric public utilities from 2005 levels by the year 2030 and carbon neutrality by the year 2050. For purposes of this section, (i) "electric public utility" means any electric public utility as defined in G.S. 62-3(23) serving at least 150,000 North Carolina retail jurisdictional customers as of January 1, 2021, and (ii) "carbon neutrality" means for every ton of CO2 emitted in the State from electric generating facilities owned or operated by or on behalf of electric public utilities, an equivalent amount of CO2 is reduced, removed, prevented, or offset, provided that the offsets are verifiable and do not exceed five percent (5%) of the authorized reduction goal. In achieving the authorized carbon reduction goals, the Utilities Commission shall:

(1) Develop a plan, no later than December 31, 2022, with the electric public utilities, including stakeholder input, for the utilities to achieve the authorized reduction goals, which may, at a minimum, consider power generation, transmission and distribution, grid modernization, storage, energy efficiency measures, demand-side management, and the latest technological breakthroughs to achieve the least cost path consistent with this section to achieve compliance with the authorized carbon reduction goals (the "Carbon Plan"). The Carbon Plan shall be reviewed every two years and may be adjusted as necessary in the determination of the Commission and the electric public utilities.

(2) Comply with current law and practice with respect to the least cost planning for generation, pursuant to G.S. 62-2(a)(3a), in achieving the authorized carbon reduction goals and determining generation and resource mix for the future. Any new generation facilities or other resources selected by the Commission in order to achieve the authorized reduction goals for electric public utilities shall

be owned and recovered on a cost of service basis by the applicable electric public utility except that:

a. Existing law shall apply with respect to energy efficiency measures and demand-side management.

b. To the extent that new solar generation is selected by the Commission, in adherence with least cost requirements, the solar generation selected shall be subject to the following: (i) forty-five percent (45%) of the total megawatts alternating current (MW AC) of any solar energy facilities established pursuant to this section shall be supplied through the execution of power purchase agreements with third parties pursuant to which the electric public utility purchases solar energy, capacity, and environmental and renewable attributes from solar energy facilities owned and operated by third parties that are 80 MW AC or less that commit to allow the procuring electric public utility rights to dispatch, operate, and control the solicited solar energy facilities in the same manner as the utility's own generating resources and (ii) fifty-five percent (55%) of the total MW AC of any solar energy facilities established pursuant to this section shall be supplied from solar energy facilities that are utility-built or purchased by the utility from third parties and owned and operated and recovered on a cost of service basis by the soliciting electric public utility. These ownership requirements shall be applicable to solar energy facilities (i) paired with energy storage and (ii) procured in connection with any voluntary customer program.

(3) Ensure any generation and resource changes maintain or improve upon the adequacy and reliability of the existing grid.

(4) Retain discretion to determine optimal timing and generation and resource-mix to achieve the least cost path to compliance with the authorized carbon reduction goals, including discretion in achieving the authorized carbon reduction goals by the dates specified in order to allow for implementation of solutions that would have a more significant and material impact on carbon reduction; provided, however, the Commission shall not exceed the dates specified to achieve the authorized carbon reduction goals by more than two years, except in the event the Commission authorizes construction of a nuclear facility or wind energy facility that would require additional time for completion due to technical, legal, logistical, or other factors beyond the control of the electric public utility, or in the event necessary to maintain the adequacy and reliability of the existing grid. In making such determinations, the Utilities Commission shall receive and consider stakeholder input. (2021-165, s. 1.)

**§ 62-111. Transfers of franchises; mergers, consolidations and combinations of public utilities.**

(a) No franchise now existing or hereafter issued under the provisions of this Chapter other than a franchise for motor carriers of passengers shall be sold, assigned, pledged or transferred, nor shall control thereof be changed through stock transfer or otherwise, or any rights thereunder leased, nor shall any merger or combination affecting any public utility be made through

acquisition of control by stock purchase or otherwise, except after application to and written approval by the Commission, which approval shall be given if justified by the public convenience and necessity. Provided, that the above provisions shall not apply to regular trading in listed securities on recognized markets.

(b) No certificates issued under the provisions of this Chapter for motor carriers of passengers shall be sold, assigned, pledged, transferred, or control changed through stock transfer or otherwise, or any rights thereunder leased, nor shall any merger or combination affecting any motor carrier of passengers be made through acquisition of control by stock purchases or otherwise, except after application to and written approval by the Commission as in this section provided, provided that the above provisions shall not apply to regular trading in listing securities on recognized markets. The applicant shall give not less than 10 days' written notice of such application by registered mail or by certified mail to all connecting and competing carriers. When the Commission is of the opinion that the transaction is consistent with the purposes of this Chapter the Commission may, in the exercise of its discretion, grant its approval, provided, however, that when such transaction will result in a substantial change in the service and operations of any motor carrier of passengers party to the transaction, or will substantially affect the operations and services of any other motor carrier, the Commission shall not grant its approval except upon notice and hearing as required in G.S. 62-262.1 for bus companies upon an application for an original certificate. In all cases arising under the subsection it shall be the duty of the Commission to require the successor carrier to satisfy the Commission that the operating debts and obligations of the seller, assignor, pledgor, lessor or transferor, including taxes due the State of North Carolina or any political subdivision thereof are paid or the payment thereof is adequately secured. The Commission may attach to its approval of any transaction arising under the section such other conditions as the Commission may determine are necessary to effectuate the purposes of this Article.

(c) No sale of a franchise for a motor carrier of household goods shall be approved by the Commission until the seller shall have filed with the Commission a statement under oath of all debts and claims against the seller, of which such seller has any knowledge or notice, (i) for gross receipts, use or privilege taxes due or to become due the State, as provided in the Revenue Act, (ii) for wages due employees of the seller, other than salaries of officers and in the case of motor carriers, (iii) for unremitted C.O.D. collections due shippers, (iv) for loss of or damage to goods transported, or received for transportation, (v) for overcharges on property transported, and, (vi) for interline accounts due other carriers, together with a bond, if required by the Commission, payable to the State, executed by a surety company authorized to do business in the State, in an amount double the aggregate of all such debts and claims conditioned upon the payment of the same within the amount of such bond as the amounts and validity of such debts and claims are established by agreement of the parties, or by judgment. This subsection shall not be applicable to sales by personal representatives of deceased or incompetent persons, receivers or trustees in bankruptcy under court order.

(d) No person shall obtain a franchise or certificate for the purpose of transferring the same to another, and an offer of such transfer within one year after the same was obtained shall be prima facie evidence that such franchise or certificate was obtained for the purpose of sale.

(e) The Commission shall approve applications for transfer of motor carrier franchises made under this section upon finding that said sale, assignment, pledge, transfer, change of control, lease, merger, or combination is in the public interest, will not adversely affect the service to the public under said franchise, will not unlawfully affect the service to the public by other public

utilities, that the person acquiring said franchise or control thereof is fit, willing and able to perform such service to the public under said franchise, and that service under said franchise has been continuously offered to the public up to the time of filing said application or in lieu thereof that any suspension of service exceeding 30 days has been approved by the Commission as provided in G.S. 62-112(b)(5). Provided, however, the Commission shall approve, without imposing conditions or limitations, applications for the transfer of a bus company franchise made under this section upon finding that the person acquiring the franchise or control of the franchise is fit, willing and able to perform services to the public under that franchise.

(f) The following provisions apply to an application for the grant or transfer of a certificate of public convenience and necessity for a water or wastewater system:

(1) Within 30 days of the filing of such application, the Commission shall (i) determine whether or not the application is complete and notify the applicant accordingly and (ii) if the Commission determines an application is incomplete, specify all such deficiencies in the notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the Commission for the Commission's review. If the Commission fails to issue a notice as to whether or not the application is complete within the requisite 30-day period, the application shall be deemed complete. Within 300 days of the filing of a completed application, the Commission shall issue an order approving the application upon finding that the proposed grant or transfer, including adoption of existing or proposed rates for the transferring utility, is in the public interest, will not adversely affect service to the public under any existing franchise, and the person acquiring said franchise or certificate of public convenience and necessity has the technical, managerial, and financial capabilities necessary to provide public utility service to the public. The requirements of this subdivision shall apply to any applications for grants or transfers of a water or wastewater system sought as a result of a proposed sale of a privately owned water or wastewater system to a public or private entity, except with respect to those applications governed by subdivision (2) of this subsection.

(2) Within 30 days of the filing of such application, the Commission shall (i) determine whether or not the application is complete and notify the applicant accordingly and (ii) if the Commission determines an application is incomplete, specify all such deficiencies in the notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the Commission for the Commission's review. If the Commission fails to issue a notice as to whether or not the application is complete within the requisite 30-day period, the application shall be deemed complete. Within 210 days of the filing of a completed application, the Commission shall issue an order approving the application upon finding that the proposed grant or transfer, including adoption of existing or proposed rates for the transferring utility, is in the public interest, will not adversely affect service to the public under any existing franchise, and the person acquiring said franchise or certificate of public convenience and necessity has the technical, managerial, and financial capabilities necessary to provide public utility service to the public. The requirements of this subdivision shall apply to any

applications for grants or transfers of a water or wastewater system sought as a result of a proposed sale of a privately owned water or wastewater system to a public or private entity, where the water or wastewater system has an unresolved notice of violation issued by the Department of Environmental Quality within the 24-month period immediately preceding the date of application.

(3) Prior to submittal of an application, and within 90 days of entering into an offer to purchase agreement for a water or wastewater system, a proposed purchaser shall have a pre-application conference with the Commission and Public Staff to clarify application requirements, information on assets that must be provided, and associated matters.

(4) An applicant for the grant or transfer of a certificate of public convenience and necessity for a water or wastewater system may waive any deadline for determination of an application's completeness, or issuance of an order approving an application, set forth in subdivision (1) or (2) of this subsection. (1947, c. 1008, s. 22; 1949, c. 1132, s. 20; 1953, c. 1140, s. 3; 1957, c. 1152, s. 10; 1961, c. 472, ss. 6, 7; 1963, c. 1165, s. 1; 1967, c. 1202; 1985, c. 676, ss. 10, 11; 1995, c. 523, s. 2; 2021-23, s. 13; 2023-67, s. 1(a).)

**§ 62-112. Effective date, suspension and revocation of franchises; dormant motor carrier franchises.**

(a) Franchises shall be effective from the date issued unless otherwise specified therein, and shall remain in effect until terminated under the terms thereof, or until suspended or revoked as herein provided.

(b) Any franchise may be suspended or revoked, in whole or in part, in the discretion of the Commission, upon application of the holder thereof; or, after notice and hearing, may be suspended or revoked, in whole or in part, upon complaint, or upon the Commission's own initiative, for wilful failure to comply with any provision of this Chapter, or with any lawful order, rule, or regulation of the Commission promulgated thereunder, or with any term, condition or limitation of such franchise; provided, however, that any such franchise may be suspended by the Commission upon notice to the holder or lessee thereof without a hearing for any one or more of the following causes:

(1) For failure to provide and keep in force at all times security, bond, insurance or self-insurance for the protection of the public as required in G.S. 62-268 of this Chapter.

(2) For failure to file and keep on file with the Commission applicable tariffs or schedules of rates as required in this Chapter.

(3) For failure to pay any gross receipts, use or privilege taxes due the State of North Carolina within 30 days after demand in writing from the agency of the State authorized by law to collect the same; provided, that this subdivision shall not apply to instances in which there is a bona fide controversy as to tax liability.

(4) For failure for a period of 60 days after execution to pay any final judgment rendered by a court of competent jurisdiction against any holder or lessee of a franchise for any debt or claim specified in G.S. 62-111(b) and (c).

(5) For failure to begin operations as authorized by the Commission within the time specified by order of the Commission, or for suspension of authorized operations for a period of 30 days without the written consent of the

Commission, save in the case of involuntary failure or suspension brought about by compulsion upon the franchise holder or lessee.

(c) The failure of a common carrier of passengers or household goods by motor vehicles to perform any transportation for compensation under the authority of its certificate for a period of 30 consecutive days shall be prima facie evidence that said franchise is dormant and the public convenience and necessity is no longer served by such common carrier certificate. Upon finding after notice and hearing that no such service has been performed for a period of 30 days the Commission is authorized to find that the franchise is dormant and to cancel the certificate of such common carrier. The Commission in its discretion may give consideration in such finding to other factors affecting the performance of such service, including seasonal requirements of the passengers or commodities authorized to be transported, the efforts of the carrier to make its services known to the public, the equipment and other facilities maintained by the carrier for performance of such service, and the means by which such carrier holds itself out to perform such service. A proceeding may be brought under this section by the Commission on its own motion or upon the complaint of any shipper or any other carrier. The franchise of a motor carrier may be canceled under the provisions of this section in any proceeding to sell or transfer or otherwise change control of said franchise brought under the provisions of G.S. 62-111, upon finding of dormancy as provided in this section. Any motor carrier who has obtained authority to suspend operations under the provisions of G.S. 62-112(b)(5) and the rules of the Utilities Commission issued thereunder shall not be subject to cancellation of its franchise under this section during the time such suspension of operations is authorized. In determining whether such carrier has made reasonable efforts to perform service under said franchise the Commission may in its discretion give consideration to disabilities of the carrier including death of the owner and physical disabilities.

(d) This section shall be applicable to bus companies. (1947, c. 1008, s. 23; 1949, c. 1132, s. 21; 1963, c. 1165, s. 1; 1967, c. 1201; 1985, c. 676, s. 12; 1995, c. 523, s. 3.)

**§ 62-113. Terms and conditions of franchises.**

(a) Each franchise shall specify the service to be rendered and the routes over which, the fixed termini, if any, between which, and the intermediate and off-route points, if any, at which, and in case of operations not over specified routes or between fixed termini, the territory within which, a motor carrier or other public utility is authorized to operate: and there shall, at the time of issuance and from time to time thereafter, be attached to the privileges granted by the franchise such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of a carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of a carrier or other public utility, the requirements established by the Commission under this Chapter; provided, however, that no terms, conditions, or limitations shall restrict the right of a motor carrier of household goods only to add to its equipment and facilities over the routes, between the termini, or within the territory specified in the franchises, as the development of the business and the demands of the public shall require. This subsection shall not be applicable to bus companies or their franchises.

(b) Each bus company franchise shall specify the fixed routes over which, and the fixed termini, if any, between which the bus company may operate. A franchise for bus companies engaged in charter operations may provide for fixed routes or statewide operating authority.

(c) Any broadband service provider that provides voice grade communication services within a defined service territory or franchise area, and elects to provide broadband service in areas contiguous to its service territory or franchise area, may provide such voice grade service as an incident to such broadband service to a customer when the incumbent telecommunications or cable provider is not currently providing broadband service to the customer, without violating its service territory restrictions or franchise agreement. (1947, c. 1008, s. 12; 1949, c. 1132, s. 11; 1963, c. 1165, s. 1; 1985, c. 676, s. 13; 1995, c. 523, s. 4; 2009-80, s. 1.)

**§ 62-114: Repealed by Session Laws 1995, c. 523, s. 5.**

**§ 62-115. Issuance of partnership franchises.**

No franchise shall be issued under this Article to two or more persons until the persons have executed a partnership agreement, filed a copy of the agreement with the Commission, and indicated to the Commission, in writing, that they have complied with Article 14A of Chapter 66 of the General Statutes relating to engaging in business under an assumed business name. (1947, c. 1008, s. 14; 1949, c. 1132, s. 14; 1961, c. 472, s. 5; 1963, c. 1165, s. 1; 2016-100, s. 8.)

**§ 62-116. Issuance of temporary or emergency authority.**

(a) Upon the filing of an application in good faith for a franchise, the Commission may in its discretion, after notice by regular mail to all persons holding franchises authorizing similar services within the same territory and upon a finding that no other adequate existing service is available, pending its final decision on the application, issue to the applicant appropriate temporary authority to operate under such just and reasonable conditions and limitations as the Commission deems necessary or desirable to impose in the public interest; provided, however, that pending such final decision on the application, the applicant shall comply with all the provisions of this Chapter, and with the lawful orders, rules and regulations of the Commission promulgated thereunder, applicable to holders of franchises, and upon failure of an applicant so to do, after reasonable notice from the Commission requiring compliance therewith in the particulars set out in the notice, and after hearing, the application may be dismissed by the Commission without further proceedings, and temporary authority issued to such applicant may be revoked. The authority granted under this section shall not create any presumption nor be considered in the action on the permanent authority application.

(b) Upon its own initiative, or upon written request by any customer or by any representative of a local or State government agency, and after issuance of notice to the owner and operator and after hearing in accordance with G.S. 1A-1, Rule 65(b), the Commission may grant emergency operating authority to any person to furnish water or sewer utility service to meet an emergency to the extent necessary to relieve the emergency; provided, that the Commission shall find from such request, or from its own knowledge, that a real emergency exists and that the relief authorized is immediate, pressing and necessary in the public interest, and that the person so authorized has the necessary ability and is willing to perform the prescribed emergency service. Upon termination of the emergency, the emergency operating authority so granted shall expire upon order of the Commission. An emergency is defined herein as the imminent danger of losing adequate water or sewer utility service or the actual loss thereof. (1947, c. 1008, s. 10; 1949, c. 1132, s. 9; 1963, c. 1165, s. 1; 1973, c. 1108.)

**§ 62-117. Same or similar names prohibited.**

No public utility holding or operating under a franchise issued under this Chapter shall adopt or use a name used by any other public utility, or any name so similar to a name of another public utility as to mislead or confuse the public, and the Commission may, upon complaint, or upon its own initiative, in any such case require the public utility to discontinue the use of such name, preference being given to the public utility first adopting and using such name. (1947, c. 1008, s. 15; 1949, c. 1132, s. 15; 1963, c. 1165, s. 1.)

**§ 62-118. Abandonment and reduction of service.**

(a) Upon finding that public convenience and necessity are no longer served, or that there is no reasonable probability of a public utility realizing sufficient revenue from a service to meet its expenses, the Commission shall have power, after petition and notice, to authorize by order any public utility to abandon or reduce such service. Upon request from any party having an interest in said utility service, the Commission shall hold a public hearing on such petition, and may on its own motion hold a public hearing on such petition. Provided, however, that abandonment or reduction of service of motor carriers shall not be subject to this section, but shall be authorized only under the provisions of G.S. 62-262(k) and G.S. 62-262.2.

(b) If any person or corporation furnishing water or sewer utility service under this Chapter shall abandon such service without the prior consent of the Commission, and the Commission subsequently finds that such abandonment of service causes an emergency to exist, the Commission may, unless the owner or operator of the affected system consents, apply in accordance with G.S. 1A-1, Rule 65, to a superior court judge who has jurisdiction pursuant to G.S. 7A-47.1 or 7A-48 in the district or set of districts as defined in G.S. 7A-41.1 in which the person or corporation so operates, for an order restricting the lands, facilities and rights-of-way used in furnishing said water or sewer utility service to continued use in furnishing said service during the period of the emergency. An emergency is defined herein as the imminent danger of losing adequate water or sewer utility service or the actual loss thereof. The court shall have jurisdiction to restrict the lands, facilities, and rights-of-way to continued use in furnishing said water or sewer utility service by appropriate order restraining their being placed to other use, or restraining their being prevented from continued use in furnishing said water or sewer utility service, by any person, corporation, or their representatives. The court may, in its discretion, appoint an emergency operator to assure the continued operation of such water or sewer utility service. The court shall have jurisdiction to require that reasonable compensation be paid to the owner, operator or other party entitled thereto for the use of any lands, facilities, and rights-of-way which are so restricted to continued use for furnishing water or sewer utility service during the period of the emergency, and it may require the emergency operator of said lands, facilities, and rights-of-way to post bond in an amount required by the court. In no event shall such compensation, for each month awarded, exceed the net average monthly income of the utility for the 12-month period immediately preceding the order restricting use.

(c) Whenever the Commission, upon complaint or investigation upon its own motion, finds that the facilities being used to furnish water or sewer utility service are inadequate to such an extent that an emergency (as defined in G.S. 62-118(b) above) exists, and further finds that there is no reasonable probability of the owner or operator of such utility obtaining the capital necessary to improve or replace the facilities from sources other than the customers, the Commission shall have the power, after notice and hearing, to authorize by order that such service be abandoned or reduced to those customers who are unwilling or unable to advance their fair share of the capital necessary for such improvements. The amount of capital to be advanced by each customer shall be

subject to approval by the Commission, and shall be advanced under such conditions as will enable each customer to retain a proprietary interest in the system to the extent of the capital so advanced. The remedy prescribed in this subsection is in addition to other remedies prescribed by law. (1933, c. 307, s. 32; 1963, c. 1165, s. 1; 1971, c. 552, s. 1; 1973, c. 1393; 1985, c. 676, s. 14; 1987 (Reg. Sess., 1988), c. 1037, s. 93; 1989 (Reg. Sess., 1990), c. 1024, s. 15.)