

## Chapter 62.

### Public Utilities.

#### Article 1.

#### General Provisions.

##### § 62-1. Short title.

This Chapter shall be known and may be cited as the Public Utilities Act. (1963, c. 1165, s. 1.)

##### § 62-2. Declaration of policy.

(a) Upon investigation, it has been determined that the rates, services and operations of public utilities as defined herein, are affected with the public interest and that the availability of an adequate and reliable supply of electric power and natural gas to the people, economy and government of North Carolina is a matter of public policy. It is hereby declared to be the policy of the State of North Carolina:

- (1) To provide fair regulation of public utilities in the interest of the public;
- (2) To promote the inherent advantage of regulated public utilities;
- (3) To promote adequate, reliable and economical utility service to all of the citizens and residents of the State;
- (3a) To assure that resources necessary to meet future growth through the provision of adequate, reliable utility service include use of the entire spectrum of demand-side options, including but not limited to conservation, load management and efficiency programs, as additional sources of energy supply and/or energy demand reductions. To that end, to require energy planning and fixing of rates in a manner to result in the least cost mix of generation and demand-reduction measures which is achievable, including consideration of appropriate rewards to utilities for efficiency and conservation which decrease utility bills;
- (4) To provide just and reasonable rates and charges for public utility services without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices and consistent with long-term management and conservation of energy resources by avoiding wasteful, uneconomic and inefficient uses of energy;
- (4a) To assure that facilities necessary to meet future growth can be financed by the utilities operating in this State on terms which are reasonable and fair to both the customers and existing investors of such utilities; and to that end to authorize fixing of rates in such a manner as to result in lower costs of new facilities and lower rates over the operating lives of such new facilities by making provisions in the ratemaking process for the investment of public utilities in plants under construction;
- (5) To encourage and promote harmony between public utilities, their users and the environment;
- (6) To foster the continued service of public utilities on a well-planned and coordinated basis that is consistent with the level of energy needed for the protection of public health and safety and for the promotion of the general welfare as expressed in the State energy policy;































































































































































































G.S. 62-73 and subsection (e) of this section is applicable to any promotion or bundled service offering filed or offered under this subsection.

(g) The following sections of Chapter 62 of the General Statutes shall not apply to local exchange companies subject to price regulation under the terms of subsection (a) of this section or electing companies subject to alternative regulation under the terms of subsection (h) or (m) of this section: G.S. 62-35(c), 62-45, 62-51, 62-81, 62-111, 62-130, 62-131, 62-132, 62-133, 62-134, 62-135, 62-136, 62-137, 62-139, 62-142, and 62-153.

(h) Notwithstanding any other provision of this Chapter, a local exchange company that is subject to rate of return regulation or subject to another form of regulation authorized under this section and whose territory is open to competition from competing local providers may elect to have its rates, terms, and conditions for its services determined pursuant to the plan described in this subsection by filing notice of its intent to do so with the Commission. The election is effective immediately upon filing. A local exchange company shall not be permitted to make the election under this section unless it commits to provide stand-alone basic residential lines to rural customers at rates that are less than or comparable to those rates charged to urban customers for the same service.

- (1) Definitions. – The following definitions apply in this subsection:
  - a. Local exchange company. – The same meaning as provided in G.S. 62-3(16a).
  - b. Open to competition from competing local providers. – Both of the following apply:
    1. G.S. 62-110(f1) applies to the franchised area and to local exchange and exchange access services offered by the local exchange company.
    2. The local exchange company is open to interconnection with competing local providers that possess a certificate of public convenience and necessity issued by the Commission. The Commission is authorized to resolve any disputes concerning whether a local exchange company is open to interconnection under this section.
  - c. Single-line basic residential service. – Single-line residential flat rate basic voice grade local service with touch tone within a traditional local calling area that provides access to available emergency services and directory assistance, the capability to access interconnecting carriers, relay services, access to operator services, and one annual local directory listing (white pages or the equivalent).
  - d. Stand-alone basic residential line. – Single-line basic residential service that is billed on a billing account that does not also contain another service, feature, or product that is sold by the local exchange company or an affiliate of the local exchange company and is billed on a recurring basis on the local exchange company's bill.
- (2) Beginning on the date that the local exchange company's election under this subsection becomes effective, the local exchange company shall continue to offer stand-alone basic residential lines to all customers who choose to subscribe to that service, and the local exchange company may increase rates for those lines annually by a percentage that does not exceed the percentage



- e. Carrier of last resort obligations pursuant to G.S. 62-110.
- f. The authority delegated to it by the Federal Communications Commission to manage the numbering resources involving that local exchange company.
- g. Regulatory authority over the rates, terms, and conditions of wholesale services.

(i) A competing local provider authorized by the Commission to do business under the provisions of G.S. 62-110(f1) may also elect to have its rates, terms, and conditions for its services determined pursuant to the plans described in subsection (h) or (m) of this section. However, it is provided further that any provisions of subsection (h) of this section requiring the provision of a specific retail service or impacting the pricing of such service, including stand-alone residence service, shall not apply to competing local providers.

(j) Notwithstanding any other provision of this Chapter, the Commission has jurisdiction over matters concerning switched access and intercarrier compensation of a local exchange company that has elected to operate under price regulation, as well as a local exchange carrier or competing local provider operating under any form of regulation covered under this Article or G.S. 62-110(f1).

(k) To evaluate the affordability and quality of local exchange service provided to consumers in this State, a local exchange company or competing local provider offering basic local residential exchange service that elects to have its rates, terms, and conditions for its services determined pursuant to the plans described in subsection (h) or (m) of this section shall make an annual report to 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 on the state of its company's operations. The report shall be due 30 days after the close of each calendar year and shall cover the period from January 1 through December 31 of the preceding year. The Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources shall review the annual reports and shall decide whether to recommend that the General Assembly take corrective action in response to those reports. The report shall include the following:

- (1) An analysis of telecommunications competition by the local exchange company or competing local provider, including access line gain or loss and the impact on consumer choices from the date the local exchange company makes its election to be subject to alternative regulation under the terms of subsection (h) or (m) of this section.
- (2) An analysis of service quality based on customer satisfaction studies from the date the local exchange company makes its election to be subject to alternative regulation under the terms of subsection (h) or (m) of this section.
- (3) An analysis of the level of local exchange rates from the date the local exchange company makes its election to be subject to alternative regulation under the terms of subsection (h) or (m) of this section.

(l) For a local exchange company that has made an election to be subject to alternative regulation under subsection (m) of this section, the requirement to report annually to the General Assembly under subsection (k) of this section shall no longer apply on and after the third anniversary following the date of the local exchange company's election.







- a. Governmental action resulting in significant cost reductions or requiring major expenditures including, but not limited to, the cost of compliance with any law, regulation, or rule for the protection of the environment or public health, other than environmental compliance costs.
- b. Major expenditures to restore or replace property damaged or destroyed by force majeure.
- c. A severe threat to the financial stability of the investor-owned public utility resulting from other extraordinary causes beyond the reasonable control of the investor-owned public utility.
- d. The investor-owned public utility persistently earns a return substantially in excess of the rate of return established and found reasonable by the Commission in the investor-owned public utility's last general rate case.

- (2) Approve any reduction in a rate or rates applicable to a customer or class of customers during the rate freeze period, if requested to do so by an investor-owned public utility that is subject to the emissions limitations set out in G.S. 143-215.107D.

(f) In any general rate case initiated to adjust base rates effective on or after January 1, 2008, the investor-owned public utility shall be allowed to recover its actual environmental compliance costs in accordance with Article 7 of this Chapter less the cumulative amount of accelerated cost recovery recorded pursuant to subsection (b) of this section.

(g) Consistent with the public interest, the Commission is authorized to approve proposals submitted by an investor-owned public utility to implement optional, market-based rates and services, provided the proposal does not increase base rates during the period of time referred to in subsection (e) of this section.

(h) Nothing in this section shall prohibit the Commission from taking any actions otherwise appropriate to enforce investor-owned public utility compliance with applicable statutes or Commission rules or to order any appropriate remedy for such noncompliance allowed by law.

(i) An investor-owned public utility that is subject to the emissions limitations set out in G.S. 143-215.107D shall submit to the Commission and to the Department of Environmental Quality on or before April 1 of each year a verified statement that contains all of the following:

- (1) A detailed report on the investor-owned public utility's plans for meeting the emissions limitations set out in G.S. 143-215.107D.
- (2) The actual environmental compliance costs incurred by the investor-owned public utility in the previous calendar year, including a description of the construction undertaken and completed during that year.
- (3) The amount of the investor-owned public utility's environmental compliance costs amortized in the previous calendar year.
- (4) An estimate of the investor-owned public utility's environmental compliance costs and the basis for any revisions of those estimates when compared to the estimates submitted during the previous year.
- (5) A description of all permits required in order to comply with the provisions of G.S. 143-215.107D for which the investor-owned public utility has applied and the status of those permits or permit applications.
- (6) A description of the construction related to compliance with the provisions of G.S. 143-215.107D that is anticipated during the following year.

- (7) A description of the applications for permits required in order to comply with the provisions of G.S. 143-215.107D that are anticipated during the following year.
- (8) The results of equipment testing related to compliance with G.S. 143-215.107D.
- (9) The number of tons of oxides of nitrogen (NOx) and sulfur dioxide (SO<sub>2</sub>) emitted during the previous calendar year from the coal-fired generating units that are subject to the emissions limitations set out in G.S. 143-215.107D.
- (10) The emissions allowances described in G.S. 143-215.107D(i) that are acquired by the investor-owned public utility that result from compliance with the emissions limitations set out in G.S. 143-215.107D.
- (11) Any other information requested by the Commission or the Department of Environmental Quality.

(j) The Secretary shall review the information submitted pursuant to subsection (i) of this section and determine whether the investor-owned public utility's actual and proposed modifications and permitting and construction schedule are adequate to achieve the emissions limitations set out in G.S. 143-215.107D and shall advise the Commission as to the Secretary's findings and recommendations.

(k) Any information, advice, findings, recommendations, or determinations provided by the Secretary pursuant to this section shall not constitute a final agency decision within the meaning of Chapter 150B of the General Statutes and shall not be subject to review under that Chapter. (2002-4, s. 9; 2015-241, s. 14.30(u), (v).)

**§ 62-133.7. Customer usage tracking rate adjustment mechanisms for natural gas local distribution company rates.**

In setting rates for a natural gas local distribution company in a general rate case proceeding under G.S. 62-133, the Commission may adopt, implement, modify, or eliminate a rate adjustment mechanism for one or more of the company's rate schedules, excluding industrial rate schedules, to track and true-up variations in average per customer usage from levels approved in the general rate case proceeding. The Commission may adopt a rate adjustment mechanism only upon a finding by the Commission that the mechanism is appropriate to track and true-up variations in average per customer usage by rate schedule from levels adopted in the general rate case proceeding and that the mechanism is in the public interest. (2007-227, s. 1.)

**§ 62-133.7A. Rate adjustment mechanism for natural gas local distribution company rates.**

In setting rates for a natural gas local distribution company in a general rate case proceeding under G.S. 62-133, the Commission may adopt, implement, modify, or eliminate a rate adjustment mechanism to enable the company to recover the prudently incurred capital investment and associated costs of complying with federal gas pipeline safety requirements, including a return based on the company's then authorized return. The Commission shall adopt, implement, modify, or eliminate a rate adjustment mechanism authorized under this section only upon a finding by the Commission that the mechanism is in the public interest. (2013-54, s. 1.)

**§ 62-133.8. Clean Energy and Energy Efficiency Portfolio Standard (CEPS).**

- (a) Definitions. – As used in this section:

- (1) "Clean energy facility" means a renewable energy facility, a nuclear energy facility, including an uprate to a nuclear energy facility, or a fusion energy facility.
- (1a) "Clean energy resource" means renewable energy resources, nuclear energy resources, including an uprate to a nuclear energy facility, and fusion energy.
- (1b) "Combined heat and power system" means a system that uses waste heat to produce electricity or useful, measurable thermal or mechanical energy at a retail electric customer's facility.
- (2) "Demand-side management" means activities, programs, or initiatives undertaken by an electric power supplier or its customers to shift the timing of electricity use from peak to nonpeak demand periods. "Demand-side management" includes, but is not limited to, load management, electric system equipment and operating controls, direct load control, and interruptible load.
- (3) "Electric power supplier" means a public utility, an electric membership corporation, or a municipality that sells electric power to retail electric power customers in the State.
- (3a) "Electricity demand reduction" means a measurable reduction in the electricity demand of a retail electric customer that is voluntary, under the real-time control of both the electric power supplier and the retail electric customer, and measured in real time, using two-way communications devices that communicate on the basis of standards.
- (4) "Energy efficiency measure" means an equipment, physical, or program change implemented after January 1, 2007, that results in less energy used to perform the same function. "Energy efficiency measure" includes, but is not limited to, energy produced from a combined heat and power system that uses non-clean energy resources. "Energy efficiency measure" does not include demand-side management.
- (4a) "Fusion" means a reaction in which at least one heavier, more stable nucleus is produced from two lighter, less stable nuclei, typically through high temperatures and pressures, emitting energy as a result.
- (4b) "Fusion energy" means the product of fusion reactions inside a fusion device, used for the purpose of generating electricity or other commercially usable forms of energy.
- (4c) "New clean energy facility" means:
  - a. A new renewable energy facility; or
  - b. Facilities placed into service on or after January 1, 2007, which are either (i) a nuclear energy facility, including an uprate to a nuclear energy facility, or (ii) a fusion energy facility.
- (5) "New renewable energy facility" means a renewable energy facility that either:
  - a. Was placed into service on or after January 1, 2007.
  - b. Delivers or has delivered electric power to an electric power supplier pursuant to a contract with NC GreenPower Corporation that was entered into prior to January 1, 2007.
  - c. Is a hydroelectric power facility with a generation capacity of 10 megawatts or less that delivers electric power to an electric power supplier.

- (6) "Renewable energy certificate" means a tradable instrument that is equal to one megawatt hour of electricity or equivalent energy supplied by a clean energy facility, new clean energy facility, or reduced by implementation of an energy efficiency measure that is used to track and verify compliance with the requirements of this section as determined by the Commission. A "renewable energy certificate" does not include the related emission reductions, including, but not limited to, reductions of sulfur dioxide, oxides of nitrogen, mercury, or carbon dioxide.
  - (7) "Renewable energy facility" means a facility, other than a hydroelectric power facility with a generation capacity of more than 10 megawatts, that either:
    - a. Generates electric power by the use of a renewable energy resource.
    - b. Generates useful, measurable combined heat and power derived from a renewable energy resource.
    - c. Is a solar thermal energy facility.
  - (8) "Renewable energy resource" means a solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource; a biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane; waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility; or hydrogen derived from a renewable energy resource. "Renewable energy resource" does not include peat, a fossil fuel, or nuclear energy resource.
- (b) Clean Energy and Energy Efficiency Standards (CEPS) for Electric Public Utilities. –
- (1) Each electric public utility in the State shall be subject to a Clean Energy and Energy Efficiency Portfolio Standard (CEPS) according to the following schedule:

Calendar Year	CEPS Requirement
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018	10% of 2017 North Carolina retail sales
2021 and thereafter	12.5% of 2020 North Carolina retail sales

- (2) An electric public utility may meet the requirements of this section by any one or more of the following:
  - a. Generate electric power at a new clean energy facility.
  - b. Use a clean energy resource to generate electric power at a generating facility other than the generation of electric power from waste heat derived from the combustion of fossil fuel.
  - c. Reduce energy consumption through the implementation of an energy efficiency measure; provided, however, an electric public utility subject to the provisions of this subsection may meet up to twenty-five percent (25%) of the requirements of this section through savings due to implementation of energy efficiency measures. Beginning in calendar year 2021 and each year thereafter, an electric public utility may meet up to forty percent (40%) of the requirements of this section through savings due to implementation of energy efficiency measures.





shall be supplied, or contracted for supply in each year, by poultry waste combined with wood shavings, straw, rice hulls, or other bedding material. The electric power suppliers, in the aggregate, shall comply with the requirements of this subsection according to the following schedule:

<b>Calendar Year</b>	<b>Requirement for Poultry Waste</b>
<b>Resources</b>	
2012	170,000 megawatt hours
2013	700,000 megawatt hours
2014	900,000 megawatt hours

(g) Control of Emissions. – As used in this subsection, Best Available Control Technology (BACT) means an emissions limitation based on the maximum degree a reduction in the emission of air pollutants that is achievable for a facility, taking into account energy, environmental, and economic impacts and other costs. A biomass combustion process at any new clean energy facility that delivers electric power to an electric power supplier shall meet BACT. The Environmental Management Commission shall determine on a case-by-case basis the BACT for a facility that would not otherwise be required to comply with BACT pursuant to the Prevention of Significant Deterioration (PSD) emissions program. The Environmental Management Commission may adopt rules to implement this subsection. In adopting rules, the Environmental Management Commission shall take into account cumulative and secondary impacts associated with the concentration of biomass facilities in close proximity to one another. In adopting rules the Environmental Management Commission shall provide for the manner in which a facility that would not otherwise be required to comply with BACT pursuant to the PSD emissions programs shall meet the BACT requirement. This subsection shall not apply to a facility that qualifies as a new clean energy facility under sub-subdivision b. of subdivision (5) of subsection (a) of this section.

(h) Cost Recovery and Customer Charges. –

- (1) For the purposes of this subsection, the term "incremental costs" means all reasonable and prudent costs incurred by an electric power supplier to:
  - a. Comply with the requirements of subsections (b), (c), (d), (e), and (f) of this section that are in excess of the electric power supplier's avoided costs other than those costs recovered pursuant to G.S. 62-133.9.
  - b. Fund research that encourages the development of renewable energy, energy efficiency, or improved air quality, provided those costs do not exceed one million dollars (\$1,000,000) per year.
  - c. Comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of this section that exceed the costs that the electric power supplier would have incurred under those subsections in the absence of the federal mandate.
  - d. Provide incentives to customers, including program costs, incurred pursuant to G.S. 62-155(f).
- (2) All reasonable and prudent costs incurred by an electric power supplier to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of this section, including, but not limited to, the avoided costs associated with a federal mandate that exceeds the avoided costs that the electric power supplier would have incurred pursuant to subsections (b), (c), (d), (e), and (f) of this section in the absence of the federal mandate, shall be recovered by the electric power supplier in an annual rider

charge assessed in accordance with the schedule set out in subdivision (4) of this subsection increased by the Commission on a pro rata basis to allow for full and complete recovery of all reasonable and prudent costs incurred to comply with the federal mandate.

- (3) Except as provided in subdivision (2) of this subsection, the total annual incremental cost to be incurred by an electric power supplier and recovered from the electric power supplier's retail customers shall not exceed an amount equal to the per-account annual charges set out in subdivision (4) of this subsection applied to the electric power supplier's total number of customer accounts determined as of December 31 of the previous calendar year. An electric power supplier shall be conclusively deemed to be in compliance with the requirements of subsections (b), (c), (d), (e), and (f) of this section if the electric power supplier's total annual incremental costs incurred equals an amount equal to the per-account annual charges set out in subdivision (4) of this subsection applied to the electric power supplier's total number of customer accounts determined as of December 31 of the previous calendar year. The total annual incremental cost recoverable by an electric power supplier from an individual customer shall not exceed the per-account charges set out in subdivision (4) of this subsection except as these charges may be adjusted in subdivision (2) of this subsection.
- (4) An electric power supplier shall be allowed to recover the incremental costs incurred to comply with the requirements of subsections (b), (c), (d), (e), and (f) of this section and fund research as provided in subdivision (1) of this subsection through an annual rider not to exceed the following per-account annual charges:

<b>Customer Class</b>	<b>2008-2011</b>	<b>2012-2014</b>	<b>2015 and thereafter</b>
Residential per account	\$10.00	\$12.00	\$27.00
Commercial per account	\$50.00	\$150.00	\$150.00
Industrial per account	\$500.00	\$1,000.00	\$1,000.00

- (5) The Commission shall adopt rules to establish a procedure for the annual assessment of the per-account charges set out in this subsection to an electric public utility's customers to allow for timely recovery of all reasonable and prudent costs of compliance with the requirements of subsections (b), (c), (d), (e), and (f) of this section and to fund research as provided in subdivision (1) of this subsection. The Commission shall ensure that the costs to be recovered from individual customers on a per-account basis pursuant to subdivisions (2) and (3) of this subsection are in the same proportion as the per-account annual charges for each customer class set out in subdivision (4) of this subsection.
- (i) Adoption of Rules. – The Commission shall adopt rules to implement the provisions of this section. In developing rules, the Commission shall:
- (1) Provide for the monitoring of compliance with and enforcement of the requirements of this section.
- (2) Include a procedure to modify or delay the provisions of subsections (b), (c), (d), (e), and (f) of this section in whole or in part if the Commission determines that it is in the public interest to do so. The procedure adopted pursuant to this subdivision shall include a requirement that the electric power supplier

demonstrate that it made a reasonable effort to meet the requirements set out in this section.

- (3) Ensure that energy credited toward compliance with the provisions of this section not be credited toward any other purpose, including another clean energy portfolio standard or voluntary clean energy purchase program in this State or any other state.
- (4) Establish standards for interconnection of clean energy facilities and other nonutility-owned generation with a generation capacity of 10 megawatts or less to an electric public utility's distribution system; provided, however, that the Commission shall adopt, if appropriate, federal interconnection standards. The standards adopted pursuant to this subdivision shall include an expedited review process for swine and poultry waste to energy projects of two megawatts (MW) or less and other measures necessary and appropriate to achieve the objectives of subsections (e) and (f) of this section.
- (5) Ensure that the owner and operator of each clean energy facility that delivers electric power to an electric power supplier is in substantial compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources.
- (6) Consider whether it is in the public interest to adopt rules for electric public utilities for net metering of clean energy facilities with a generation capacity of one megawatt or less.
- (7) Develop procedures to track and account for renewable energy certificates, including ownership of renewable energy certificates that are derived from a customer owned clean energy facility as a result of any action by a customer of an electric power supplier that is independent of a program sponsored by the electric power supplier.

(j) Repealed by Session Laws 2021-23, s. 16, effective May 17, 2021.

(k) Tracking of Renewable Energy Certificates. – No later than July 1, 2010, the Commission shall develop, implement, and maintain an Internet Web site for the online tracking of renewable energy certificates in order to verify the compliance of electric power suppliers with the CEPS requirements of this section and to facilitate the establishment of a market for the purchase and sale of renewable energy certificates.

(l) [Registration of Facilities. – ] The owner, including an electric power supplier, of each clean energy facility or new clean energy facility, whether or not required to obtain a certificate of public convenience and necessity pursuant to G.S. 62-110.1, that intends for renewable energy certificates it earns to be eligible for use by an electric power supplier to comply with G.S. 62-133.8 shall register the facility with the Commission. Such an owner shall file a registration statement in the form prescribed by the Commission and remit to the Commission the fee required pursuant to G.S. 62-300(a)(16). (2007-397, s. 2(a); 2009-475, s. 14(a); 2011-55, ss. 1, 2, 3; 2011-291, s. 2.13; 2011-309, s. 2; 2011-394, s. 1; 2015-241, s. 14.30(u); 2017-57, s. 14.1(p); 2017-192, ss. 7, 8(b), 10(a), 5.1(a); 2021-23, s. 16; 2023-138, s. 1(a).)

### **§ 62-133.9. Cost recovery for demand-side management and energy efficiency measures.**

(a) The definitions set out in G.S. 62-133.8 apply to this section. As used in this section, "new," used in connection with demand-side management or energy efficiency measure, means a































put into effect, if the rate or rates so put into effect are finally determined to be excessive. The amount of said interest shall be determined pursuant to G.S. 62-130(e).

(d) If the rate or rates so put into effect are finally determined to be excessive, the public utility shall make refund of the excess plus interest to its customers within 30 days after such final determination, and the Commission shall set forth in its final order the terms and conditions for such refund. If such refund is not paid in accordance with such order, any persons entitled to such refund may sue therefor, either jointly or severally, and be entitled to recover, in addition to the amount of the refund, all court costs and reasonable attorney fees for the plaintiff, to be fixed by the court. (1933, c. 307, s. 7; 1959, c. 422; 1963, c. 1165, s. 1; 1981, c. 461, s. 2.)

**§ 62-136. Investigation of existing rates; changing unreasonable rates; certain refunds to be distributed to customers.**

(a) Whenever the Commission, after a hearing had after reasonable notice upon its own motion or upon complaint of anyone directly interested, finds that the existing rates in effect and collected by any public utility are unjust, unreasonable, insufficient or discriminatory, or in violation of any provision of law, the Commission shall determine the just, reasonable, and sufficient and nondiscriminatory rates to be thereafter observed and in force, and shall fix the same by order.

(b) All municipalities in the State are deemed to be directly interested in the rates and service of public utilities operating in such municipalities, and may institute or participate in proceedings before the Commission involving such rates or service. Any municipality may institute proceedings before the Commission to eliminate unfair and unreasonable discrimination in rates or service by any public utility between such complainant or its inhabitants and any other municipality or its inhabitants, and the Commission shall, upon complaint, after hearing afforded to the public utility affected and to all municipalities affected, have authority to remove such discrimination.

(c) If any refund is made to a distributing company operating as a public utility in North Carolina of charges paid to the company from which the distributing company obtains the energy, service or commodity distributed, the Commission may, in cases where the charges have been included in rates paid by the customers of the distributing company, require said distributing company to distribute said refund plus interest among the distributing company's customers in a manner prescribed by the Commission. The amount of said interest shall be determined pursuant to G.S. 62-130(e). (Ex. Sess. 1913, c. 20, s. 7; C.S., s. 1083; 1933, c. 134, s. 8; c. 307, s. 8; 1937, c. 401; 1941, c. 97; 1963, c. 1165, s. 1; 1981, c. 460, s. 1.)

**§ 62-137. Scope of rate case.**

In setting a hearing on rates upon its own motion, upon complaint, or upon application of a public utility, the Commission shall declare the scope of the hearing by determining whether it is to be a general rate case, under G.S. 62-133, or whether it is to be a case confined to the reasonableness of a specific single rate, a small part of the rate structure, or some classification of users involving questions which do not require a determination of the entire rate structure and overall rate of return. The procedures established in this section shall not be required when pricing alternatives permitted under G.S. 62-134(h) and (j) are adopted. (1963, c. 1165, s. 1; 1989, c. 112, s. 4.)





























(d1) The Department of Health and Human Services shall utilize revenues from the wireless surcharge collected under subsection (i) of this section to support the Division of Services for the Deaf and the Hard of Hearing, in accordance with G.S. 143B-216.33, G.S. 143B-216.34, and Chapter 8B of the General Statutes.

(e) Administration of Service. – The Department of Health and Human Services shall administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Department may contract out the provision of this service for four-year periods to one or more service providers, using the provisions of G.S. 143-129. The Department shall administer all programs and services, including the Regional Resource Centers within the Division of Services for the Deaf and the Hard of Hearing in accordance with G.S. 143B-216.33, G.S. 143B-216.34, and Chapter 8B of the General Statutes.

(f) Charge to Users. – The users of the telecommunications relay service shall be charged their approved long distance and local rates for telephone services (including the surcharge required by this section), but no additional charges may be imposed for the use of the relay service. The local service providers shall collect revenues from the users of the relay service for long distance services provided through the relay service. These revenues shall be deposited in the special fund established in subsection (d) of this section in a manner determined by the Commission after consulting with the State Treasurer. Local service providers shall be compensated for collection, inquiry, and other administrative services provided by said companies, subject to the approval of the Commission.

(g) Reporting Requirement. – The Commission shall, after consulting with the Department of Health and Human Services, develop a format and filing schedule for a comprehensive financial and operational report on the telecommunications relay service program. The Department of Health and Human Services shall thereafter prepare and file these reports as required by the Commission with the Commission and the Public Staff. The Department shall also be required to report to the Revenue Laws Study Committee.

(h) Power to Regulate. – The Commission shall have the same power to regulate the operation of the telecommunications relay service program as it has to regulate any public utility subject to the provisions of this Chapter.

(i) Wireless Surcharge. – A CMRS provider, as part of its monthly billing process, must collect the same surcharge imposed on each exchange access facility under this section for each CMRS connection. A CMRS provider may deduct a one percent (1%) administrative fee from the total amount of surcharge collected. A CMRS provider shall remit the surcharge collected, less the administrative fee, to the 911 Board in the same manner and with the same frequency as the local service providers remit the surcharge to the State Treasurer. The 911 Board shall remit the funds collected from the surcharge to the special account created under subsection (d) of this section. (1989, c. 599; 1997-443, s. 11A.118(a); 1999-402, s. 1; 2003-341, s. 1; 2007-383, s. 4; 2009-451, s. 10.56(c), (d); 2012-142, s. 10.24(a), (b); 2015-241, s. 7A.3; 2016-94, s. 12J.2.)

### **§ 62-158. Natural gas expansion.**

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





















determined appropriate by the Commission, and financing costs and the period for recovery of such costs.

- g. A comparison between the net present value of the costs to customers that are estimated to result from the issuance of storm recovery bonds and the costs that would result from the application of the traditional method of financing and recovering storm recovery costs from customers. The comparison should demonstrate that the issuance of storm recovery bonds and the imposition of storm recovery charges are expected to provide quantifiable benefits to customers.
  - h. Direct testimony and exhibits supporting the petition.
- (2) If a public utility is subject to a settlement agreement that governs the type and amount of principal costs that could be included in storm recovery costs and the public utility proposes to finance all or a portion of the principal costs using storm recovery bonds, then the public utility must file a petition with the Commission for review and approval of those costs no later than 90 days before filing a petition for a financing order pursuant to this section.
- (3) Petition and order. –
  - a. Proceedings on a petition submitted pursuant to this subdivision begin with the petition by a public utility, filed subject to the time frame specified in subdivision (2) of this subsection, if applicable, and shall be disposed of in accordance with the requirements of this Chapter and the rules of the Commission, except as follows:
    - 1. Within 14 days after the date the petition is filed, the Commission shall establish a procedural schedule that permits a Commission decision no later than 135 days after the date the petition is filed.
    - 2. No later than 135 days after the date the petition is filed, the Commission shall issue a financing order or an order rejecting the petition. A party to the Commission proceeding may petition the Commission for reconsideration of the financing order within five days after the date of its issuance.
  - b. A financing order issued by the Commission to a public utility shall include all of the following elements:
    - 1. Except for changes made pursuant to the formula-based mechanism authorized under this section, the amount of storm recovery costs, including the level of storm recovery reserves, to be financed using storm recovery bonds. The Commission shall describe and estimate the amount of financing costs that may be recovered through storm recovery charges and specify the period over which storm recovery costs and financing costs may be recovered.
    - 2. A finding that the proposed issuance of storm recovery bonds and the imposition and collection of a storm recovery charge are expected to provide quantifiable benefits to customers as compared to the costs that would have been incurred absent the issuance of storm recovery bonds.

3. A finding that the structuring and pricing of the storm recovery bonds are reasonably expected to result in the lowest storm recovery charges consistent with market conditions at the time the storm recovery bonds are priced and the terms set forth in such financing order.
4. A requirement that, for so long as the storm recovery bonds are outstanding and until all financing costs have been paid in full, the imposition and collection of storm recovery charges authorized under a financing order shall be nonbypassable and paid by all existing and future retail customers receiving transmission or distribution service, or both, from the public utility or its successors or assignees under Commission-approved rate schedules or under special contracts, even if a customer elects to purchase electricity from an alternative electric supplier following a fundamental change in regulation of public utilities in this State.
5. A determination of what portion, if any, of the storm recovery reserves must be held in a funded reserve and any limitations on how the reserve may be held, accessed, or used.
6. A formula-based true-up mechanism for making, at least annually, expeditious periodic adjustments in the storm recovery charges that customers are required to pay pursuant to the financing order and for making any adjustments that are necessary to correct for any overcollection or undercollection of the charges or to otherwise ensure the timely payment of storm recovery bonds and financing costs and other required amounts and charges payable in connection with the storm recovery bonds.
7. The storm recovery property that is, or shall be, created in favor of a public utility or its successors or assignees and that shall be used to pay or secure storm recovery bonds and all financing costs.
8. The degree of flexibility to be afforded to the public utility in establishing the terms and conditions of the storm recovery bonds, including, but not limited to, repayment schedules, expected interest rates, and other financing costs.
9. How storm recovery charges will be allocated among customer classes.
10. A requirement that, after the final terms of an issuance of storm recovery bonds have been established and before the issuance of storm recovery bonds, the public utility determines the resulting initial storm recovery charge in accordance with the financing order and that such initial storm recovery charge be final and effective upon the issuance of such storm recovery bonds without further Commission action so long as the storm recovery charge is consistent with the financing order.

11. A method of tracing funds collected as storm recovery charges, or other proceeds of storm recovery property, and determine that such method shall be deemed the method of tracing such funds and determining the identifiable cash proceeds of any storm recovery property subject to a financing order under applicable law.
12. Any other conditions not otherwise inconsistent with this section that the Commission determines are appropriate.
- c. A financing order issued to a public utility may provide that creation of the public utility's storm recovery property is conditioned upon, and simultaneous with, the sale or other transfer of the storm recovery property to an assignee and the pledge of the storm recovery property to secure storm recovery bonds.
- d. If the Commission issues a financing order, the public utility shall file with the Commission at least annually a petition or a letter applying the formula-based mechanism and, based on estimates of consumption for each rate class and other mathematical factors, requesting administrative approval to make the applicable adjustments. The review of the filing shall be limited to determining whether there are any mathematical or clerical errors in the application of the formula-based mechanism relating to the appropriate amount of any overcollection or undercollection of storm recovery charges and the amount of an adjustment. The adjustments shall ensure the recovery of revenues sufficient to provide for the payment of principal, interest, acquisition, defeasance, financing costs, or redemption premium and other fees, costs, and charges in respect of storm recovery bonds approved under the financing order. Within 30 days after receiving a public utility's request pursuant to this paragraph, the Commission shall either approve the request or inform the public utility of any mathematical or clerical errors in its calculation. If the Commission informs the utility of mathematical or clerical errors in its calculation, the utility may correct its error and refile its request. The time frames previously described in this paragraph shall apply to a refiled request.
- e. Subsequent to the transfer of storm recovery property to an assignee or the issuance of storm recovery bonds authorized thereby, whichever is earlier, a financing order is irrevocable and, except for changes made pursuant to the formula-based mechanism authorized in this section, the Commission may not amend, modify, or terminate the financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise adjust storm recovery charges approved in the financing order. After the issuance of a financing order, the public utility retains sole discretion regarding whether to assign, sell, or otherwise transfer storm recovery property or to cause storm recovery bonds to be issued, including the right to defer or postpone such assignment, sale, transfer, or issuance.





parties and to counterparties under any ancillary agreements, and other financing costs. Any transfer, sale, conveyance, assignment, grant of a security interest in or pledge of storm recovery property by a public utility, or an affiliate of the public utility, to an assignee, to the extent previously authorized in a financing order, does not require the prior consent and approval of the Commission.

- d. If a public utility defaults on any required payment of charges arising from storm recovery property specified in a financing order, a court, upon application by an interested party, and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the storm recovery property to the financing parties or their assignees. Any such financing order remains in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the public utility or its successors or assignees.
  - e. The interest of a transferee, purchaser, acquirer, assignee, or pledgee in storm recovery property specified in a financing order issued to a public utility, and in the revenue and collections arising from that property, is not subject to setoff, counterclaim, surcharge, or defense by the public utility or any other person or in connection with the reorganization, bankruptcy, or other insolvency of the public utility or any other entity.
  - f. Any successor to a public utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any merger or acquisition, sale, or other business combination, or transfer by operation of law, as a result of public utility restructuring or otherwise, must perform and satisfy all obligations of, and have the same rights under a financing order as, the public utility under the financing order in the same manner and to the same extent as the public utility, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the storm recovery property. Nothing in this sub-subdivision is intended to limit or impair any authority of the Commission concerning the transfer or succession of interests of public utilities.
  - g. Storm recovery bonds shall be nonrecourse to the credit or any assets of the public utility other than the storm recovery property as specified in the financing order and any rights under any ancillary agreement.
- (2) Provisions applicable to security interests. –
- a. The creation, perfection, and enforcement of any security interest in storm recovery property to secure the repayment of the principal and interest and other amounts payable in respect of storm recovery bonds; amounts payable under any ancillary agreement and other financing costs are governed by this subsection and not by the provisions of the Code.
  - b. A security interest in storm recovery property is created, valid, and binding and perfected at the later of the time: (i) the financing order is issued, (ii) a security agreement is executed and delivered by the debtor

- granting such security interest, (iii) the debtor has rights in such storm recovery property or the power to transfer rights in such storm recovery property, or (iv) value is received for the storm recovery property. The description of storm recovery property in a security agreement is sufficient if the description refers to this section and the financing order creating the storm recovery property.
- c. A security interest shall attach without any physical delivery of collateral or other act, and, upon the filing of a financing statement with the office of the Secretary of State, the lien of the security interest shall be valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the person granting the security interest, regardless of whether the parties have notice of the lien. Also upon this filing, a transfer of an interest in the storm recovery property shall be perfected against all parties having claims of any kind, including any judicial lien or other lien creditors or any claims of the seller or creditors of the seller, and shall have priority over all competing claims other than any prior security interest, ownership interest, or assignment in the property previously perfected in accordance with this section.
  - d. The Secretary of State shall maintain any financing statement filed to perfect any security interest under this section in the same manner that the Secretary maintains financing statements filed by transmitting utilities under the Code. The filing of a financing statement under this section shall be governed by the provisions regarding the filing of financing statements in the Code.
  - e. The priority of a security interest in storm recovery property is not affected by the commingling of storm recovery charges with other amounts. Any pledgee or secured party shall have a perfected security interest in the amount of all storm recovery charges that are deposited in any cash or deposit account of the qualifying utility in which storm recovery charges have been commingled with other funds and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party.
  - f. No application of the formula-based adjustment mechanism as provided in this section will affect the validity, perfection, or priority of a security interest in or transfer of storm recovery property.
  - g. If a default or termination occurs under the storm recovery bonds, the financing parties or their representatives may foreclose on or otherwise enforce their lien and security interest in any storm recovery property as if they were secured parties with a perfected and prior lien under the Code, and the Commission may order amounts arising from storm recovery charges be transferred to a separate account for the financing parties' benefit, to which their lien and security interest shall apply. On application by or on behalf of the financing parties, the Superior Court

















where the easement is located for the appointment of commissioners to determine the fair market value of the easement in accordance with the process set forth in G.S. 40A-48.

(f) If the Commission decides that the easement should not be terminated, the underlying fee owner may not file a complaint with the Commission under this section regarding the same easement for a period of five years from the date of the decision.

(g) For purposes of this section, the term "utility company" means a public utility as defined in G.S. 62-3(23), a municipality providing utility services, an authority organized under the North Carolina Water and Sewer Authorities Act, a sanitary district, a metropolitan water district, a metropolitan sewerage district, a metropolitan water and sewerage district, a county water and sewer district, or an electric or telephone membership corporation. (2020-18, s. 1(a).)

#### Article 10.

#### Transportation in General.

**§ 62-200. Duty to transport household goods within a reasonable time.**

(a) It shall be unlawful for any common carrier of household goods doing business in this State to omit or neglect to transport within a reasonable time any goods, merchandise or other articles of value received by it for shipment and billed to or from any place in this State, unless otherwise agreed upon between the carrier and the shipper, or unless the same be burned, stolen or otherwise destroyed, or unless otherwise provided by the Commission.

(b) Any common carrier violating any of the provisions of this section shall forfeit to the party aggrieved the sum of ten dollars (\$10.00) for the first day and one dollar (\$1.00) for each succeeding day of such unlawful detention or neglect, but the forfeiture shall not be collected for a period exceeding 30 days.

(c) In reckoning what is a reasonable time for such transportation, it shall be considered that such common carrier has transported household goods within a reasonable time if it has done so in the ordinary time required for transporting such articles by similar carriers between the receiving and shipping stations. The Commission is authorized to establish reasonable times for transportation by the various modes of carriage which shall be held to be prima facie reasonable, and a failure to transport within such times shall be held prima facie unreasonable. This section shall be construed to refer not only to delay in starting the household goods from the station where they are received, but to require the delivery at their destination within the time specified: Provided, that if such delay shall be due to causes which could not in the exercise of ordinary care have been foreseen or which were unavoidable, then upon the establishment of these facts to the satisfaction of the court trying the cause, the defendant common carrier shall be relieved from any penalty for delay in the transportation of household goods, but it shall not be relieved from the costs of such action. In all actions to recover penalties against a common carrier under this section, the burden of proof shall be upon such carrier to show where the delay, if any, occurred. The penalties provided in this section shall be in addition to the damages recoverable for failure to transport within a reasonable time.

(d) This section shall not apply to motor carriers of passengers. (Code, s. 1964; 1899, c. 164, s. 2, subsecs. 2, 7; 1903, c. 444; c. 590, s. 3; c. 693; 1905, c. 545; Rev., ss. 1094, 2631, 2632; 1907, cc. 217, 461; C.S., ss. 1053, 3515, 3516; 1933, c. 134, s. 8; 1941, c. 97; 1963, c. 1165, s. 1; 1995, c. 523, s. 11; 1995 (Reg. Sess., 1996), c. 742, s. 33; 1998-128, s. 9.)

**§ 62-201. Freight charges to be at legal rates; penalty for failure to deliver to consignee on tender of same.**







consignee, by registered or certified mail, if known to such carrier, not less than 15 days before such sale shall be made; or if the name and address of the consignor and consignee cannot with reasonable diligence be ascertained by such carrier, notice of the sale shall be published once a week for two consecutive weeks in some newspaper of general circulation published at the point of sale: Provided, that if there is no such paper published at such point, the publication may be made in any paper having a general circulation in the State: Provided further, however, that if the nondelivery of said article is due to the consignee's and consignor's rejection of it, then such article may be sold by the carrier at public or private sale, and at such time and place as will in the carrier's judgment net the best price, and this without further notice to either consignee or consignor, and without the necessity of publication.

(b) Repealed by Session Laws 1995, c. 523, s. 14.

(c) The common carrier shall keep a record of the articles sold and of the prices obtained therefor, and shall, after deducting all charges and the expenses of the sale, including advertisement, if advertised, pay the balance to the owner of such articles on demand therefor made at any time within five years from the date of the sale. If no person shall claim the surplus within five years, such surplus shall be paid to the Escheat Fund of the Department of State Treasurer.

(d) This section shall not apply to motor carriers of passengers. (1871-2, c. 138, s. 50; Code, s. 1987; Rev., s. 2639; 1921, c. 124, ss. 1, 2, 3; C.S., s. 3534; 1963, c. 1165, s. 1; 1981, c. 531, s. 17; 1995, c. 523, s. 14.)

#### **§ 62-210. Discrimination between connecting lines.**

All common carriers subject to the provisions of this Chapter shall afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines and for the forwarding and delivering of passengers and freight to and from their several lines and those connecting therewith, and shall not discriminate in their rates, routes and charges against such connecting lines, and shall be required to make as close connection as practicable for the convenience of the traveling public. Common carriers shall obey all rules and regulations made by the Commission relating to trackage. Irregular route motor carriers shall interchange traffic only with the approval of the Commission. Provided, however, that this section shall not apply to motor carriers of passengers. (1899, c. 164, s. 21; Rev., s. 1088; C.S., s. 1107; 1933, c. 134, s. 8; 1935, c. 258; 1941, c. 97; 1963, c. 1165, s. 1.)

#### **§ 62-211: Repealed by Session Laws 1995, c. 523, s. 15.**

#### **§ 62-212. Indemnity agreements in motor carrier transportation contracts.**

(a) A provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omission of the promisee is against the public policy of this State and is void and unenforceable.

(b) The following definitions apply in this section:

(1) Motor carrier transportation contract. – A contract, agreement, or understanding covering at least one of the following:

a. The transportation of property for compensation or hire by the motor carrier.



**§§ 62-241 through 62-247: Repealed by Session Laws 1998-128, s. 13.**

**§§ 62-248 through 62-258. Reserved for future codification purposes.**

Article 12.

Motor Carriers.

**§ 62-259. Additional declaration of policy for motor carriers.**

In addition to the declaration of policy set forth in G.S. 62-2 of Article 1 of Chapter 62, it is declared the policy of the State of North Carolina to preserve and continue all motor carrier transportation services now afforded this State; and to provide fair and impartial regulations of motor carriers in the use of the public highways in such a manner as to promote, in the interest of the public, the inherent advantages of highway transportation; to promote and preserve adequate economical and efficient service to all the communities of the State by motor carriers; to encourage and promote harmony among all carriers and to prevent discrimination, undue preferences or advantages, or unfair or destructive competitive practices between all carriers; to foster a coordinated statewide motor carrier service; and to conform with the national transportation policy and the federal motor carriers acts insofar as the same may be practical and adequate for application to intrastate commerce. The provisions of this section and these policies are applicable to bus companies and their rates and services only to the extent with which they are consistent with the provisions of G.S. 62-259.1 and of the Bus Regulatory Reform Act of 1985. (1947, c. 1008, s. 1; 1949, c. 1132, s. 2; 1963, c. 1165, s. 1; 1985, c. 676, s. 16.)

**§ 62-259.1. Specific declaration of policy for bus companies.**

The transportation of passengers, their baggage and express, by bus companies has become increasingly subject to competition from other forms of transportation which are unregulated or only partially regulated as to rates and services. It is in the public interest and it is the policy of this State that bus companies be partially deregulated so that they may rely upon competitive market forces to determine the best quality, variety and price of bus services, thereby promoting the public health, safety and welfare by strengthening and increasing the viability of this necessary form of transportation. (1985, c. 676, s. 17.)

**§ 62-260. Exemptions from regulations.**

(a) Nothing in this Chapter shall be construed to include persons and vehicles engaged in one or more of the following services by motor vehicle if not engaged at the time in the transportation of other passengers or other property by motor vehicle for compensation:

- (1) Transportation of passengers or household goods for or under the control of the State of North Carolina, or any political subdivision thereof, or any board, department or commission of the State, or any institution owned and supported by the State;
- (2) Transportation of passengers by taxicabs when not carrying more than fifteen passengers or transportation by other motor vehicles performing bona fide taxicab service and not carrying more than fifteen passengers in a single vehicle at the same time when such taxicab or other vehicle performing bona fide taxicab service is not operated on a regular route or between termini; provided, no taxicab while operating over the regular route of a common carrier outside of





- (4) For the purpose of carrying out the provisions of this Article, the Utilities Commission may avail itself of the special information of the Board of Transportation in promulgating safety requirements and in considering applications for certificates or permits with particular reference to conditions of the public highway or highways involved, and the ability of the said public highway or highways to carry added traffic; and the Board of Transportation, upon request of the Utilities Commission, shall furnish such information.
- (5) The Commission may, without prior notice and hearing, make and enter any order, rule, regulation, or requirement, not affecting rates, upon unanimous finding by the Commission of the existence of an emergency and make such order, rule, regulation or requirement effective upon notice given to each affected motor carrier by registered mail, or by certified mail pending a hearing thereon as provided in this subdivision. It shall not be necessary for the Commission to give notice to the carriers affected or to hold a hearing prior to a revision in the rules regarding procedures to be followed in filing rates. Any such emergency order, rule, regulation or requirement shall be subject to continuation, modification, change, or revocation after notice and hearing and all such emergency orders, rules, regulations and requirements shall be supplanted and superseded by any final order, rule, regulation or requirement entered by the Commission.
- (6) The Commission shall regulate brokers and make and enforce reasonable requirements respecting their licenses, financial responsibility, accounts, records, reports, operations and practices.
- (7) Repealed by Session Laws 1985, c. 454, s. 12.
- (8) To determine, upon its own motion, or upon motion by a motor carrier, or any other party in interest, whether the transportation of household goods in intrastate commerce performed by any motor carrier or class of motor carriers lawfully engaged in operation in this State is in fact of such nature, character, or quantity as not substantially to affect or impair uniform regulation by the Commission of transportation by motor carriers engaged in intrastate commerce. Upon so finding, the Commission shall issue a certificate of exemption to such motor carrier or class of motor carriers which, during the period such certificate shall remain effective and unrevoked, shall exempt such carrier or class of motor carriers from compliance with the provisions of this Article, and shall attach to such certificate such reasonable terms and conditions as the public interest may require. At any time after the issuance of any such certificate of exemption, the Commission may by order revoke all or any part thereof, if it shall find that the transportation in intrastate commerce performed by the carrier or class of carriers designated in such certificate will be, or shall have become, or is reasonably likely to become, or such nature, character, or quantity as in fact substantially to affect or impair uniform regulation by the Commission of intrastate transportation by motor carriers in effectuating the policy declared in this Chapter. Upon revocation of any such certificate, the Commission shall restore to the carrier or carriers affected thereby, without further proceedings, the authority, if any, to operate in intrastate commerce held by such carrier or carriers at the time the certificate of exemption pertaining to







application, raising material issues of fact, are received by the Commission within 30 days after the notice is given, the Commission shall issue its certificate granting the requested authority unless it determines that the applicant is unfit, unwilling or unable to perform the proposed operations. In the event of this determination, or if protests to the proposed operation raising material issues of fact are received, the Commission shall set the application for hearing, as soon as possible, and provide notice to be given as provided by its rules and shall issue its final order within 180 days after application is filed. At the hearing, the only issue for consideration shall be whether the applicant is fit, willing and able to perform the proposed charter operations and the issue of need shall not be considered. On the issue of its fitness, willingness and ability to perform the proposed charter operations, the applicant in its application and at any hearing shall present evidence from which the Commission may find that: (i) the applicant has sufficient assets to perform properly the proposed operations; (ii) the operation will be conducted only with properly qualified drivers; (iii) the applicant will maintain safe, clean and attractive buses and equipment; (iv) the applicant will maintain insurance for the protection of the public as provided in this Chapter; (v) the applicant has sufficient equipment to conduct the proposed operation; and (vi) the applicant will observe all applicable laws, rules and regulations of this State.

(j) Any bus company authorized and engaged solely in charter operations shall not be required to transport passengers over a fixed route in this State as an incidence to its charter operations. (1985, c. 676, s. 20.)

### **§ 62-262.2. Discontinuance or reduction in service.**

(a) When a bus company proposes to discontinue service over any intrastate route or proposes to reduce its level of service to any points on a route to a level which is less than one trip per day (excluding Saturdays and Sundays), it shall petition the Commission for permission to do so. Within 10 days after the filing of a petition, the Commission shall require notice to be given.

(b) Any person or the Public Staff may object, to the Commission, to the granting of permission to any bus company to discontinue or reduce transportation under this section. If neither objects to the granting of permission to discontinue or reduce service under this section, within 30 days after the notice as required by subsection (a) of this section, the Commission may grant the permission based on the record and without hearing.

(c) If, within 30 days after the notice as required by subsection (a) of this section, any person or the Public Staff objects in writing to the Commission to granting of such permission, the Commission shall grant such permission unless the Commission finds as a fact, that the discontinuance or reduction in service is not consistent with the public interest or that continuing the transportation, without the proposed discontinuance or reduction, will not constitute an unreasonable burden on interstate commerce. In making a finding under this subsection, the Commission shall accord great weight to the extent to which the interstate and intrastate revenues from the transportation proposed to be reduced or discontinued are less than the variable costs of providing the transportation, including depreciation for revenue equipment. The Commission may also consider, to the extent applicable, all other factors which are to be considered by the Interstate Commerce Commission in a proceeding commenced under 49 U.S.C. § 10935. For the purposes of this section, the bus company filing a petition for permission to discontinue or reduce service shall have the burden of proving (i) the amount of its interstate and intrastate revenues received for transportation to, from or between, but not through, points on the involved intrastate route; and (ii) the system variable costs of providing the transportation.

(d) The Commission may make its determination with or without a public hearing. The Commission shall take final action upon the petition not later than 120 days after any written objections to the petition are filed.

(e) The provisions of G.S. 62-262(k) shall not be applicable to bus companies. (1985, c. 676, s. 21; 1989 (Reg. Sess., 1990), c. 1024, s. 15.)

**§ 62-263. Application for broker's license.**

(a) No person shall engage in the business of a broker in intrastate operations within this State unless such person holds a broker's license issued by the Commission.

(b) The Commission shall prescribe the form of application and such reasonable requirements and information as may in its judgment be necessary.

(c) Upon the filing of an application for license the Commission may fix a time and place for the hearing of the application and require such notices, publications, or other service as it may prescribe by the general rule or regulation.

(d) A license shall be issued to any qualified applicant therefor authorizing the whole or any part of the operations covered by the application if it is found that the applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this Article and the requirements, rules and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the license, is or will be consistent with the public interest and policy declared herein.

(e) The Commission shall have the same authority over persons operating under and holding a brokerage license as it has over motor carriers under this Article, and shall require a broker to furnish bond or other security approved by the Commission and sufficient for the protection of travelers by motor vehicle. (1949, c. 1132, s. 13; 1963, c. 1165, s. 1.)

**§ 62-264: Repealed by Session Laws 1995, c. 523, s. 19.**

**§ 62-265. Emergency operating authority.**

To meet unforeseen emergencies, the Commission may, upon its own initiative, or upon written request by any person, department or agency of the State, or of any county, city or town, with or without a hearing, grant appropriate authority to any owner of a duly licensed vehicle or vehicles, whether such owner holds a certificate or not, to transport passengers or household goods between such points, or within such area during the period of the emergency and to the extent necessary to relieve the same, as the Commission may fix in its order granting such authority; provided, that unless the emergency is declared by the General Assembly or under its authority, the Commission shall find from such request, or from its own knowledge or conditions, that a real emergency exists and that relief to the extent authorized in its order is immediate, pressing and necessary in the public interest, and that the carrier so authorized has the necessary equipment and is willing to perform the emergency service as prescribed by the order. In all cases, under this section, the Commission shall first afford the holders of certificates operating in the territory affected an opportunity to render the emergency service. Upon the termination of the emergency, the operating privileges so granted shall automatically expire and the Commission shall forthwith withdraw all operating privileges granted to any person under this section. (1947, c. 1008, s. 17; 1949, c. 1132, s. 17; 1963, c. 1165, s. 1; 1995, c. 523, s. 20.)

**§ 62-266. Repealed by Session Laws 1985, c. 454, s. 13, effective June 24, 1985.**







- (1) Applicant. – An individual, partnership, limited liability corporation, or corporation who applies for certification as a common carrier of household goods in the State of North Carolina.
- (2) Certificate. – A certificate of exemption or a certificate of public convenience and necessity issued by the Utilities Commission to authorize the holder to engage in the intrastate transportation of household goods for compensation in the State of North Carolina.
- (3) Criminal history. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's or current holder's fitness to possess a certificate.
- (4) Current holder. – An individual, partnership, limited liability corporation, or corporation who has been certified as a common carrier of household goods in the State of North Carolina.

(b) The Commission shall conduct a criminal history record check of applicants and current holders of a certificate to transport household goods. An applicant for or current holder of a certificate to transport household goods must furnish the Commission with a complete set of the applicant's fingerprints in a manner prescribed by the Commission. In those instances where the quality characteristic of an applicant's or current holder's fingerprints is determined to be too low or otherwise inadequate for processing by the FBI, the applicant or current holder shall comply with the Commission's criminal history record check requirement pursuant to the Commission's alternate name-based records check procedure.

(c) If the applicant's or current holder's verified criminal history record check reveals one or more convictions, the convictions shall not automatically constitute cause for denying an application or revoking a certificate. However, all of the following factors shall be considered by the Commission in determining whether the application should be denied or the certificate revoked:

- (1) The level and seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The nature of the crime as it relates to the duties and responsibilities of a common carrier of household goods.
- (5) The employment history of the person after the date the crime was committed.
- (6) Any evidence of rehabilitation of the person after the date the crime was committed.

(d) The Commission may deny an application or revoke a certificate if the applicant or current holder refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories. (2012-9, s. 1.)

**§ 62-274. Evidence; joinder of surety.**

No report by any carrier of any accident arising in the course of the operations of such carrier, made pursuant to any requirement of the Commission, and no report by the Commission of any investigation of any such accident, shall be admitted as evidence, or used for any other purpose in any suit or action for damages growing out of any matter mentioned in such report or investigation; nor shall the discharge by any carrier of any truck driver or other employee after any such accident be offered or admitted in evidence for any purpose, in any suit or action against such carrier for

damages arising out of any such accident; nor shall any insurance company or surety executing any insurance policy, bond, or other security for the protection of the public, as provided in G.S. 62-268, or as provided in G.S. 62-112, be joined with the assured carrier in any action or suit for damages, debt, or claim thereby secured; nor shall evidence of any such policy, bond, or other security be offered or received in any such action or suit against the carrier, but the surety or insurer shall be obligated within the amount of such policy, bond or other security to pay any final judgment against the carrier. (1947, c. 1008, s. 34; 1949, c. 1132, s. 31; 1963, c. 1165, s. 1.)

**§ 62-275. Repealed by Session Laws 1985, c. 676, s. 23, effective July 10, 1985.**

**§ 62-276. Construction of Article.**

Nothing herein contained shall be construed to relieve any motor carrier from any regulation otherwise imposed by law or lawful authority, and this Article shall not be construed to relieve any such motor carrier from any obligation or duty imposed by Chapter 20 of the General Statutes of North Carolina. (1949, c. 1132, s. 35; 1963, c. 1165, s. 1.)

**§ 62-277. Repealed by Session Laws 1985, c. 454, s. 16, effective June 24, 1985.**

**§ 62-278. Revocation of license plates by Utilities Commission.**

(a) The license plates of any carrier of persons or household goods by motor vehicle for compensation may be revoked and removed from the vehicles of any such carrier for wilful violation of any provision of this Chapter, or for the wilful violation of any lawful rule or regulation made and promulgated by the Utilities Commission. To that end the Commission shall have power upon complaint or upon its own motion, after notice and hearing, to order the license plates of any such offending carrier revoked and removed from the vehicles of such carrier for a period not exceeding 30 days, and it shall be the duty of the Department of Motor Vehicles to execute such orders made by the Utilities Commission upon receipt of a certified copy of the same.

(b) This section shall be in addition to and independent of other provisions of law for the enforcement of the motor carrier laws of this State. (1951, c. 1120; 1963, c. 1165, s. 1; 1995, c. 523, s. 27.)

**§ 62-279. Injunction for unlawful operations.**

If any motor carrier, or any other person or corporation, shall operate a motor vehicle in violation of any provision of this Chapter applicable to motor carriers or motor vehicles generally, except as to the reasonableness of rates or charges and the discriminatory character thereof, or shall operate in violation of any rule, regulation, requirement or order of the Commission, or of any term or condition of any certificate, the Commission or any holder of a certificate duly issued by the Commission may apply 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 motor carrier or other person or corporation so operates, for the enforcement of any provisions of this Article, or of any rule, regulation, requirement, order, term or condition of the Commission. Such court shall have jurisdiction to enforce obedience to this Article or to any rule, order, or decision of the Commission by a writ of injunction or other process, mandatory or otherwise, restraining such carrier, person or corporation, or its officers, agents, employees and representatives from further violation of this Article or of any rule, order, regulation, or decision of the Commission. (1947, c. 1008, s. 30; 1949,

c. 1132, s. 30; 1953, c. 1140, s. 4; 1957, c. 1152, s. 16; 1961, c. 472, ss. 8, 11; 1963, c. 1165, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 95; 1995, c. 523, s. 28.)

**§ 62-280. Household goods carrier; marking or identification of vehicles.**

(a) No carrier of household goods shall operate any motor vehicle upon a highway, public street, or public vehicular area within the State in the transportation of household goods for compensation in violation of the provisions of G.S. 20-398.

(b) The Utilities Commission may assess a civil penalty not in excess of five thousand dollars (\$5,000) for the violation of subsection (a) of this section. The clear proceeds of any civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (2011-244, s. 2.)

**§ 62-280.1. False representation of household goods carrier certificate unlawful.**

(a) It is unlawful for a person not issued a certificate to operate as a carrier of household goods under the provisions of this Chapter to do any of the following:

- (1) Orally, in writing, in print, or by sign, including the use of a vehicle placard, phone book, Internet, magazine, newspaper, billboard, or business card, or in any other manner, directly or by implication, represent that the person holds a certificate or is otherwise authorized to operate as a carrier of household goods in this State.
- (2) Use in connection with the person's name or place of business any words, letters, abbreviations, or insignia indicating or implying that the person holds a certificate or is otherwise authorized to operate as a carrier of household goods in this State.

(b) Any person who violates subsection (a) of this section or who knowingly aids and abets another person in violating subsection (a) of this section shall be guilty of a Class 3 misdemeanor and punished only by a fine of not more than five hundred dollars (\$500.00) for the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense.

(c) The Utilities Commission may assess a civil penalty not in excess of five thousand dollars (\$5,000) for the violation of subsection (a) of this section. The clear proceeds of any civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Notwithstanding the provisions of G.S. 20-383 to the contrary, any law enforcement officer with territorial jurisdiction is authorized to enforce the provisions of this section. (2011-244, s. 2; 2021-23, s. 19.)

**§ 62-281. Repealed by Session Laws 1985, c. 454, s. 17, effective June 24, 1985.**

**§§ 62-282 through 62-289. Reserved for future codification purposes.**

Article 12A.

Human Service Transportation.

**§ 62-289.1. Short title.**

This Article shall be known and may be cited as the "North Carolina Act to Remove Barriers to Coordinating Human Service and Volunteer Transportation". (1981, c. 792, s. 1.)



Human service agencies are authorized to purchase insurance to cover persons who provide volunteer transportation. (1981, c. 792, s. 1.)

**§ 62-289.7. Municipal licenses and taxes.**

No county, city, town, municipal corporation or other unit of local government may impose a special tax on or require a special license for human service transportation or volunteer transportation other than that customarily used or imposed on private passenger automobiles unless the tax or license is provided for by a statute, ordinance, or regulation specifically addressing human service transportation or volunteer transportation. (1981, c. 792, s. 1.)

Article 13.

Reorganization of Public Utilities.

**§ 62-290. Corporations whose property and franchises sold under order of court or execution.**

When the property and franchises of a public utility corporation are sold under a judgment or decree of a court of this State, or of the district court of the United States, or under execution, to satisfy a mortgage debt or other encumbrance thereon, such sale vests in the purchaser all the right, title, interest and property of the parties to the action in which such judgment or decree was made, to said property and franchises, subject to all the conditions, limitations and restrictions of the corporation; and the purchaser and his associates thereupon become a new corporation, by such name as they select, and they are the stockholders in the ratio of the purchase money by them contributed; and are entitled to all the rights and franchises and subject to all the conditions, limitations and penalties of the corporation whose property and franchises have been so sold. In the event of the sale of a railroad in foreclosure of a mortgage or deed of trust, whether under a decree of court or otherwise, the corporation created by or in consequence of the sale succeeds to all the franchises, rights and privileges of the original corporation only when the sale is of all the railroad owned by the company and described in the mortgage or deed of trust, and when the railroad is sold as an entirety. If a purchaser at any such sale is a corporation, such purchasing corporation shall succeed to all the properties, franchises, powers, rights, and privileges of the original corporation: Provided, that this shall not affect vested rights and shall not be construed to alter in any manner the public policy of the State now or hereafter established with reference to trusts and contracts in restraint of trade. (Code, ss. 697, 698; 1897, c. 305; 1901, c. 2, s. 99; Rev., s. 1238; 1913, c. 25, s. 1; 1919, c. 75; C.S., s. 1221; 1955, c. 1371, s. 2; 1963, c. 1165, s. 1.)

**§ 62-291. New owners to meet and organize; special rule for railroads.**

(a) The persons for whom the property and franchises have been purchased pursuant to G.S. 62-290 shall meet within 30 days after the delivery of the conveyance made by virtue of said judgment or decree, and organize the new corporation, 10 days' written notice of the time and place of the meeting having been given to each of said persons. At this meeting they shall adopt a corporate name and seal, determine the amount of the capital stock of the corporation, and shall have power and authority to make and issue certificates of stock in shares of such amounts as they see fit. The corporation may then, or at any time thereafter, create and issue preferred stock to such an amount, and at such time, as they may deem necessary.

(b) Whenever the purchaser of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may hereafter be sold, by virtue of any mortgage executed by such corporation or execution issued upon any judgment or decree of any court, shall acquire title

to the same in the manner prescribed by law, such purchaser may associate with him any number of persons, and make and acknowledge and file articles of association as prescribed by this Chapter. Such purchaser and his associates shall thereupon be a new corporation, with all the powers, privileges and franchises and subject to all of the provisions of this Chapter.

(c) When any railroad corporation shall be dissolved, or its property sold and conveyed under any execution, deed of trust, mortgage or other conveyance, the owner or purchaser shall constitute a new corporation upon compliance with law. (1871-2, c. 138, s. 5; Code, ss. 1936, 2005; 1901, c. 2, ss. 100, 101, 102; Rev., ss. 1239, 1240, 2552, 2565; C.S., ss. 1222, 3462, 3463; 1955, c. 1371, s. 2; 1963, c. 1165, s. 1.)

**§ 62-292. Certificate to be filed with Secretary of State.**

It is the duty of the new corporation provided for by this Article, within one month after its organization, to make certificate thereof, under its common seal, attested by the signature of its president, specifying the date of the organization, the name adopted, the amount of capital stock, and the names of its president and directors, and transmit the certificate to the Secretary of State, to be filed and recorded in his office. A certified copy of this certificate so filed shall be recorded in the office of the clerk of the superior court of the county in which is located the principal office of the corporation, and is the charter and evidence of the corporate existence of the new corporation. (1901, c. 2, s. 103; Rev., s. 1241; C.S., s. 1223; 1955, c. 1371, s. 2; 1963, c. 1165, s. 1.)

**§ 62-293. Effect on liens and other rights.**

Nothing contained in this Article in any manner impairs the lien of a prior mortgage, or other encumbrance, upon the property or franchises conveyed under a sale pursuant to this Article when by the terms of the judgment or decree under which the sale was made, or by operation of law, the sale was made subject to the lien of any such prior mortgage or other encumbrance. No such sale and conveyance or organization of such new corporation in any way affects the rights of any person or body politic not a party to the action in which the judgment or decree was made, nor of any party except as determined by the judgment or decree. When a trustee has been made a party to such action and his cestui que trust, for reason satisfactory to the court, has not been made a party thereto, the rights and interest of the cestui que trust are concluded by the decree. (1901, c. 2, s. 103; Rev., s. 1241; C.S., s. 1224; 1955, c. 1371, s. 2; 1963, c. 1165, s. 1.)

**§§ 62-294 through 62-299. Reserved for future codification purposes.**

Article 14.

Fees and Charges.

**§ 62-300. Particular fees and charges fixed; payment.**

(a) The Commission shall receive and collect the following fees and charges in accordance with the classification of utilities as provided in rules and regulations of the Commission, and no others:

- (1) Twenty-five dollars (\$25.00) with each notice of appeal to the Court of Appeals or the Supreme Court, and with each notice of application for a writ of certiorari.
- (2) With each application for a new certificate for motor carrier rights, the fee shall be two hundred fifty dollars (\$250.00) when filed by Class 1 motor carriers, one hundred dollars (\$100.00) when filed by Class 2 motor carriers, and twenty-five

- dollars (\$25.00) when filed by Class 3 motor carriers, and twenty-five dollars (\$25.00) as filing fee for any amendment thereto so as to extend or enlarge the scope of operations thereunder, and twenty-five dollars (\$25.00) for each broker who applies for a brokerage license under the provisions of this Chapter.
- (3) With each application for a general increase in rates, fares and charges and for each filing of a tariff which seeks general increases in rates, fares and charges, the fee will be five hundred dollars (\$500.00) for Class A utilities and Class 1 motor carriers, two hundred fifty dollars (\$250.00) for Class B utilities and Class 2 motor carriers, one hundred dollars (\$100.00) for Class C utilities and twenty-five dollars (\$25.00) for Class D utilities and Class 3 motor carriers; provided that in the case of an application or tariff for a general increase in rates filed by a tariff agent for more than one carrier, the applicable fee shall be the highest fee prescribed for any motor carrier included in the application or tariff. This fee shall not apply to applications for adjustments in particular rates, fares, or charges for the purpose of eliminating inequities, preferences or discriminations or to applications to adjust rates and charges based solely on the increased cost of fuel used in the generation or production of electric power.
- (4) One hundred dollars (\$100.00) with each application by motor carrier of passengers for the abandonment or permanent or temporary discontinuance of transportation service previously authorized in a certificate.
- (4a) Repealed by Session Laws 1998-128, s. 10.
- (5) With each application for a certificate of public convenience and necessity or for any amendment thereto so as to extend or enlarge the scope of operations thereunder, the fee shall be two hundred fifty dollars (\$250.00) for Class A utilities, one hundred dollars (\$100.00) for Class B utilities, and twenty-five dollars (\$25.00) for Class C and D utilities and two hundred fifty dollars (\$250.00) for any other person seeking a certificate of public convenience and necessity.
- (5a) With each application by a bus company for an original certificate of authority or for any amendment thereto or to an existing certificate of public convenience and necessity so as to extend or enlarge the scope of operations thereunder the fee shall be two hundred fifty dollars (\$250.00).
- (6) With each application for approval of the issuance of securities or for the approval of any sale, lease, hypothecation, lien, or other transfer of any household goods or operating rights of any carrier or public utility over which the Commission has jurisdiction, the fee shall be two hundred fifty dollars (\$250.00) for Class A utilities and Class 1 motor carriers, one hundred dollars (\$100.00) for Class B utilities and Class 2 motor carriers, and twenty-five dollars (\$25.00) for Class C and D utilities and Class 3 motor carriers; provided, that in the case of sales, leases and transfers between two or more carriers or utilities, the applicable fee shall be the highest fee prescribed for any party to the transaction.
- (7) Ten dollars (\$10.00) with each application, petition, or complaint not embraced in (2) through (6) of this section, wherein such application, petition, or complaint seeks affirmative relief against a carrier or public utility over which the Commission has jurisdiction. This fee shall not apply to applications for

adjustments in particular rates, fares or charges for the purpose of eliminating inequities, preferences or discriminations; nor shall this fee apply to applications, petitions, or complaints made by any county, city or town; nor shall this fee apply to applications or petitions made by individuals seeking service or relief from a public utility.

- (8) Repealed by Session Laws 1985, c. 454, s. 18.
- (9) One dollar (\$1.00) for each page (8 1/2 x 11 inches) of transcript of testimony, but not less than five dollars (\$5.00) for any such transcript.
- (10) Twenty cents (20¢) for each page of copies of papers, orders, certificates or other records, but not less than one dollar (\$1.00) for any such order or record, plus five dollars (\$5.00) for formal certification of any such paper, order or record.
- (11), (12) Repealed by Session Laws 1985, c. 454, s. 18.
- (13) Two hundred fifty dollars (\$250.00) with each application for a certificate of public convenience and necessity to construct a transmission line.
- (14) Twenty-five dollars (\$25.00) with each filing by a person otherwise exempt from Commission regulation under Public Law 103-305 to participate in standard transportation practices as set out by the Commission.
- (15) One hundred dollars (\$100.00) for each application for exemption filed by nonprofit and consumer-owned water or sewer utilities pursuant to G.S. 62-110.5.
- (16) Two hundred fifty dollars (\$250.00) with each application for a certificate of authority to engage in business as an electric generator lessor filed pursuant to G.S. 62-126.7 or each registration statement for a clean energy facility or new clean energy facility filed pursuant to G.S. 62-133.8(l).
- (17) Fifty dollars (\$50.00) for each report of proposed construction filed by the owner of an electric generating facility that is exempt from the certification requirements of G.S. 62-110.1(a).

(b) All witness fees, officers' fees serving papers, and cost of serving notice by publication shall be paid by the party at whose instance or for whose benefit such fees and costs are incurred.

(c) No application, petition, complaint, notice of appeal, notice of application for writ of certiorari, or other document or paper, the filing of which requires the payment of a fee under this Article, shall be deemed filed until the fees herein required shall have been paid to the Commission.

(d) The fees and charges as set forth in subdivisions (1), (7), (9) and (10) of subsection (a) of this section shall not apply to the State of North Carolina or to any board, department, commission, institution or other agency of the State; and all applications, petitions or complaints submitted by the State of North Carolina or any board, department, commission, institution or other agency of the State shall be filed without the payment of the fees required by this section. All transcripts, papers, orders, certificates, or other records necessary to perfect an appeal, or to determine whether an appeal is to be taken, shall be furnished without charge to the Attorney General upon his request in cases in which the Attorney General appears in the public interest or as representing any board, department, commission, institution or other agency of the State.

(e) The provisions of this section shall apply with respect to the regulation of electric membership corporations as provided in G.S. 117-18.1. (1953, c. 825, s. 1; 1955, c. 64; 1957, c. 1152, s. 15; 1961, c. 472, ss. 2-4; 1963, c. 1165, s. 1; 1967, c. 1039; c. 1190, s. 7; 1969, c. 721, s. 2;

1971, c. 736, s. 2; 1975, c. 447, s. 1; 1977, c. 1003; 1977, 2nd Sess., c. 129, s. 32; 1979, c. 792; 1985, c. 311, ss. 1-4; c. 454, ss. 18, 19; c. 676, s. 24; 1991, c. 189, s. 2; 1995, c. 523, ss. 29, 32; 1997-437, s. 3; 1998-128, s. 10; 1999-180, s. 6; 2017-192, s. 10(b); 2021-23, s. 26(a); 2023-138, s. 1(d.)

**§ 62-301: Repealed by Session Laws 1989, c. 787, s. 2.**

**§ 62-302. Regulatory fee.**

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

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

(b) Public Utility Rate. –

- (1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.
- (2) Unless adjusted under subdivision (3) of this subsection, the public utility fee is a percentage of a utility's jurisdictional revenues as follows:

Noncompetitive jurisdiction revenues	0.148%
Subsection (h) competitive jurisdictional revenues	0.04%
Subsection (m) competitive jurisdictional revenues	0.02%
- (3) In the first half of each calendar year, the Commission shall review the estimated cost of operating the Commission and the Public Staff for the next fiscal year, including a reasonable margin for the reserve fund allowed under this section. In making this determination, the Commission shall consider all relevant factors that may affect the cost of operating the Commission or the Public Staff or a possible unanticipated change in competitive and noncompetitive jurisdictional revenues. If the estimated receipts provided for under this section are less than the estimated cost of operating the Commission and the Public Staff for the next fiscal year, including the reasonable margin for the reserve fund, then the Commission may increase the public utility regulatory fee on noncompetitive jurisdictional revenues effective for the next fiscal year. In no event may the percentage rate of the public utility regulatory fee on noncompetitive jurisdiction revenues exceed seventeen and one-half hundredths of one percent (0.175%). If the estimated receipts provided for under this section are more than the estimated cost of operating the Commission

and the Public Staff for the next fiscal year, including the reasonable margin for the reserve fund, then the Commission shall decrease the public utility regulatory fee on noncompetitive jurisdictional revenues effective for the next fiscal year.

(4) As used in this section:

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

(b1) Electric Membership Corporation Rate. – The electric membership corporation regulatory fee for each fiscal year is two hundred thousand dollars (\$200,000).

(c) When Due. – The electric membership corporation regulatory fee imposed under this section shall be paid in quarterly installments. The fee is due and payable to the Commission on or before the 15th day of the second month following the end of each quarter.

The public utility regulatory fee imposed under this section is due and payable to the Commission on or before the 15th day of the second month following the end of each quarter. Every public utility subject to the public utility regulatory fee shall, on or before the date the fee is due for each quarter, prepare and render a report on a form prescribed by the Commission. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter and shall be accompanied by any supporting documentation that the Commission may by rule require. Receipts shall be reported on an accrual basis.

If a public utility's report for the first quarter of any fiscal year shows that application of the percentage rate would yield a quarterly fee of twenty-five dollars (\$25.00) or less, the public utility shall pay an estimated fee for the entire fiscal year in the amount of twenty-five dollars (\$25.00). If, after payment of the estimated fee, the public utility's subsequent returns show that application of the percentage rate would yield quarterly fees that total more than twenty-five dollars (\$25.00) for the entire fiscal year, the public utility shall pay the cumulative amount of the fee resulting from application of the percentage rate, to the extent it exceeds the amount of fees, other than any surcharge, previously paid.

(d) Use of Proceeds. – A special fund in the office of State Treasurer, the Utilities Commission and Public Staff Fund, is created. The fees collected pursuant to this section and all other funds received by the Commission or the Public Staff, except for the clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited pursuant to G.S. 62-310(a), shall be deposited in the Utilities Commission and Public Staff Fund. The Fund shall be placed in an interest bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund shall only be spent pursuant to appropriation by the General Assembly.

The Utilities Commission and Public Staff Fund shall be subject to the provisions of the State Budget Act except that no unexpended surplus of the Fund shall revert to the General Fund. All funds credited to the Utilities Commission and Public Staff Fund shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public as provided by this Chapter and in regulating electric membership corporations as provided in G.S. 117-18.1.

The clear proceeds of civil penalties collected pursuant to G.S. 62-50(d) and the clear proceeds of funds forfeited pursuant to G.S. 62-310(a) shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(e) Fee changes. – If a utility's regulatory fee obligation is changed, the Commission shall either adjust the utility's rates to reflect the change or approve the utility's request for an accounting order allowing deferral of the change in the fee obligation. (1989, c. 787, s. 1; 1998-215, s. 126; 1999-180, s. 5; 2000-140, s. 56; 2006-203, s. 18; 2009-238, s. 6; 2011-52, s. 2; 2014-59, s. 1; 2015-134, ss. 1(a), 2, 3.)

### **§ 62-302.1. Regulatory fee for combustion residuals surface impoundments.**

(a) **(Expires April 1, 2030 – see note)** Fee Imposed. – Each public utility with a coal combustion residuals surface impoundment shall pay a regulatory fee for the purpose of defraying the costs of oversight of coal combustion residuals. The fee is in addition to the fee imposed under G.S. 62-302. The fees collected under this section shall only be used to pay the expenses of the Department of Environmental Quality in providing oversight of coal combustion residuals.

(b) Rate. – The combustion residuals surface impoundment fee shall be three-hundredths of one percent (0.03%) of the North Carolina jurisdictional revenues of each public utility with a coal combustion residuals surface impoundment. For the purposes of this section, the term "North Carolina jurisdictional revenues" has the same meaning as in G.S. 62-302.

(c) When Due. – The fee shall be paid in quarterly installments. The fee is payable to the Department of Environmental Quality on or before the 15th of the second month following the end of each quarter. Each public utility subject to this fee shall, on or before the date the fee is due for each quarter, prepare and render a report on a form prescribed by the Department of Environmental Quality. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter and shall be accompanied by any supporting documentation that the Department of Environmental Quality may by rule require. Receipts shall be reported on an accrual basis.

(d) Use of Proceeds. – A special fund in the Department of Environmental Quality is created. The fees collected pursuant to this section shall be deposited in the Coal Combustion Residuals Management Fund. The Fund shall be placed in an interest-bearing account, and any interest or other income derived from the Fund shall be credited to the Fund. Subject to appropriation by the General Assembly, one hundred percent (100%) shall be used by the Department of Environmental Quality. All funds credited to the Fund shall be used only to pay the expenses of the Department of Environmental Quality in providing oversight of coal combustion residuals.

(e) Recovery of Fee. – The North Carolina Utilities Commission shall not allow an electric public utility to recover this fee from the retail electric customers of the State. (2014-122, s. 15(a); 2015-1, s. 3.6; 2015-7, s. 7; 2015-241, s. 14.30(c), (u); 2016-95, s. 2; 2023-134, s. 12.14(e).)

### **§§ 62-303 through 62-309. Reserved for future codification purposes.**

## Article 15.

### Penalties and Actions.

#### **§ 62-310. Public utility violating any provision of Chapter, rules or orders; penalty; enforcement by injunction.**

(a) Any public utility which violates any of the provisions of this Chapter or refuses to conform to or obey any rule, order or regulation of the Commission shall, in addition to the other penalties prescribed in this Chapter forfeit and pay a sum up to one thousand dollars (\$1,000) for each offense, to be recovered in an action to be instituted in the Superior Court of Wake County, in the name of the State of North Carolina on the relation of the Utilities Commission; and each day such public utility continues to violate any provision of this Chapter or continues to refuse to obey or perform any rule, order or regulation prescribed by the Commission shall be a separate offense.

(b) If any person or corporation shall furnish water or sewer utility service in violation of any provision of this Chapter applicable to water or sewer utilities, except as to the reasonableness of rates or charges and the discriminatory character thereof, or shall provide such service in violation of any rule, regulation or order of the Commission, the Commission shall apply 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 the enforcement of any provision of this Chapter or of any rule, regulation or order of the Commission. The court shall have jurisdiction to enforce obedience to this Chapter or to any rule, regulation or order of the Commission by appropriate writ, order or other process restraining such person, corporation, or their representatives from further violation of this Chapter or of any rule, regulation or order of the Commission. (1899, c. 164, s. 23; Rev., s. 1087; C.S., s. 1106; 1933, c. 134, s. 8; c. 307, ss. 36, 37; 1941, c. 97; 1963, c. 1165, s. 1; 1973, c. 1073; 1987 (Reg. Sess., 1988), c. 1037, s. 96.)

#### **§ 62-311. Willful acts of employees deemed those of public utility.**

The willful act of any officer, agent, or employee of a public utility, acting within the scope of his official duties of employment, shall, for the purpose of this Article, be deemed to be the willful act of the utility. (1933, c. 307, s. 29; 1963, c. 1165, s. 1.)

#### **§ 62-312. Actions to recover penalties.**

Except as otherwise provided in this Chapter, an action for the recovery of any penalty under this Chapter shall be instituted in Wake County, and shall be instituted in the name of the State of North Carolina on the relation of the Utilities Commission against the person incurring such penalty; or whenever such action is upon the complaint of any injured person, it shall be instituted in the name of the State of North Carolina on the relation of the Utilities Commission upon the complaint of such injured person against the person incurring such penalty. Such action may be instituted and prosecuted by the Attorney General, the district attorney of the Wake County Superior Court, or the injured person. The procedure in such actions, the right of appeal and the rules regulating appeals shall be the same as provided by law in other civil actions. (Code, s. 1976; 1885, c. 221; 1899, c. 164, ss. 8, 15; Rev., ss. 1092, 1113, 2647; C.S., ss. 1062, 1111, 3415; 1933, c. 134, s. 8; c. 307, s. 30; 1941, c. 97; 1963, c. 1165, s. 1; 1973, c. 47, s. 2.)

#### **§ 62-313. Refusal to permit Commission to inspect records made misdemeanor.**

Any public utility, its officers or agents in charge thereof, that fails or refuses upon the written demand of the Commission, or a majority of said Commission, and under the seal of the

Commission, to permit the Commission, its authorized representatives or employees to examine and inspect its books, records, accounts and documents, or its plant, property, or facilities, as provided for by law, shall be guilty of a Class 3 misdemeanor. Each day of such failure or refusal shall constitute a separate offense and each such offense shall be punishable only by a fine of not less than five hundred dollars (\$500.00) and not more than five thousand dollars (\$5,000). (1963, c. 1165, s. 1; 1993, c. 539, s. 483; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-314. Violating rules, with injury to others.**

If any public utility doing business in this State by its agents or employees shall be guilty of the violation of the rules and regulations provided and prescribed by the Commission, and if after due notice of such violation given to the principal officer thereof, if residing in the State, or, if not, to the manager or superintendent or secretary or treasurer if residing in the State, or, if not, then to any local agent thereof, ample and full recompense for the wrong or injury done thereby to any person as may be directed by the Commission shall not be made within 30 days from the time of such notice, such public utility shall incur a penalty for each offense of five hundred dollars (\$500.00). (1899, c. 164, s. 15; Rev., s. 1086; C.S., s. 1105; 1933, c. 134, s. 8; 1941, c. 97; 1963, c. 1165, s. 1.)

**§ 62-315. Failure to make report; obstructing Commission.**

Every officer, agent or employee of any public utility, who shall willfully neglect or refuse to make and furnish any report required by the Commission for the purposes of this Chapter, or who shall willfully or unlawfully hinder, delay or obstruct the Commission in the discharge of the duties hereby imposed upon it, shall forfeit and pay five hundred dollars (\$500.00) for each offense, to be recovered in an action in the name of the State. A delay of 10 days to make and furnish such report shall raise the presumption that the same was willful. (1899, c. 164, s. 18; Rev., s. 1089; C.S., s. 1108; 1933, c. 134, s. 8; 1941, c. 97; 1963, c. 1165, s. 1.)

**§ 62-316. Disclosure of information by employee of Commission unlawful.**

It shall be unlawful for any agent or employees of the Commission knowingly and willfully to divulge any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of this Chapter, except as he may be directed by the Commission or by a court or judge thereof. (1947, c. 1008, s. 30; 1949, c. 1132, s. 30; 1953, c. 1140, s. 4; 1957, c. 1152, s. 16; 1961, c. 472, ss. 8, 11; 1963, c. 1165, s. 1; 1971, c. 736, s. 1.)

**§ 62-317. Remedies for injuries cumulative.**

The remedies given by this Chapter to persons injured shall be regarded as cumulative to the remedies otherwise provided by law against public utilities. (1899, c. 164, s. 26; Rev., s. 1093; C.S., s. 1112; 1963, c. 1165, s. 1.)

**§ 62-318. Allowing or accepting rebates a misdemeanor.**

If any person shall participate in illegally pooling freights or shall directly or indirectly allow or accept rebates on freights, he shall be guilty of a Class 1 misdemeanor. (1879, c. 237, s. 2; Code, s. 1968; Rev., s. 3762; C.S., s. 3520; 1963, c. 1165, s. 1; 1993, c. 539, s. 484; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-319. Riding on train unlawfully; venue.**

If any person, with the intention of being transported free in violation of law, rides or attempts to ride on top of any car, coach, engine or tender, on any railroad in this State, or on the drawheads between cars, or under cars, on truss rods, or trucks, or in any freight car, or on a platform of any baggage car, express car or mail car on any train, he shall be guilty of a Class 3 misdemeanor. Any person charged with a violation of this section may be tried in any county in this State through which such train may pass carrying such person, or in any county in which such violation may have occurred or may be discovered. (1899, c. 625; 1905, c. 32; Rev., s. 3748; C.S., s. 3508; 1963, c. 1165, s. 1; 1993, c. 539, s. 485; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-320: Repealed by Session Laws 1995, c. 523, s. 30.**

**§ 62-321. Penalty for nondelivery of intrastate telegraph message.**

Any telegraph company doing business in this State that shall fail to transmit and deliver any intrastate message within a reasonable time shall forfeit and pay to anyone who may sue for same a penalty of twenty-five dollars (\$25.00). Such penalty shall be in addition to any right of action that any person may have for the recovery of damages. Proof of the sending of any message from one point in this State to another point in this State shall be prima facie evidence that it is an intrastate message. (1919, c. 175; C.S., s. 1704; 1963, c. 1165, s. 1.)

**§ 62-322. Unauthorized manufacture or sale of switch-lock keys a misdemeanor.**

It shall be unlawful for any person to make, manufacture, sell or give away to any other person any duplicate key to any lock used by any railroad company in this State on its switches or switch tracks, except upon the written order of that officer of such railroad company whose duty it is to distribute and issue switch-lock keys to the employees of such railroad company. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (1909, c. 795; C.S., s. 3477; 1963, c. 1165, s. 1; 1993, c. 539, s. 487; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-323. Willful injury to property of public utility a misdemeanor.**

If any person shall willfully do or cause to be done any act or acts whatever whereby any building, construction or work of any public utility, or any engine, machine or structure or any matter or thing appertaining to the same shall be stopped, obstructed, impaired, weakened, injured or destroyed, he shall be guilty of a Class 1 misdemeanor. (1871-2, c. 138, s. 39; Code, s. 1974; Rev., s. 3756; C.S., s. 3478; 1963, c. 1165, s. 1; 1993, c. 539, s. 488; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-324. Disclosure of information as to shipments unlawful.**

(a) It shall be unlawful for any common carrier engaged in intrastate commerce or any officer, receiver, trustee, lessee, agent, or employee of such carrier, or for any other person authorized by such carrier, to receive information, knowingly to disclose to, or permit to be acquired by any person other than the shipper or consignee without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such common carrier for such transportation, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly receive any such information which may be so used.

(b) Nothing in this section shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or any officer or agent of the State or of the government of the United States, in the exercise of his power, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crimes or to another carrier, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers. (1947, c. 1008, s. 30; 1961, c. 472, s. 8; 1963, c. 1165, s. 1.)

#### **§ 62-325. Unlawful motor carrier operations.**

(a) Any person, whether carrier, passenger, shipper, consignee, or any officer, employee, agent, or representative thereof, who shall knowingly offer, grant, or give or solicit, accept, or receive any rebate, concession, or discrimination in violation of any provision of this Chapter, or who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulations as in this Chapter provided for motor carriers, shall be deemed guilty of a Class 3 misdemeanor and upon conviction thereof only be fined not more than five hundred dollars (\$500.00) for the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense.

(b) Any motor carrier, or other person, or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the Commission as required by this Article, or other applicable law, or to make specific and full, true, and correct answer to any question within 30 days from the time it is lawfully required by the Commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the Commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully neglect or fail to make true and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person required under this Article to keep the same, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the Commission with respect thereto, shall be deemed guilty of a Class 3 misdemeanor and upon conviction thereof only be subject for each offense to a fine of not more than five thousand dollars (\$5,000). As used in this subsection the words "kept" and "keep" shall be construed to mean made, prepared, or compiled, as well as retained. It shall be the duty of the Commission to prescribe and enforce such general rules and regulations as it may deem necessary to compel all motor carriers to keep accurate records of all revenue received by them to the end that any tax levied and assessed by the State of North Carolina upon revenues may be collected. Any agent or employee of a motor carrier who shall willfully and knowingly make a false report or record of fares, charges, or other revenue received by a carrier or collected in its behalf shall be guilty of a Class 1 misdemeanor.

(c) Any person who, at any bus terminal, solicits or otherwise attempts to induce any person to use some form of transportation for compensation other than that lawfully using said terminal premises by contract with the terminal operator or by valid order of the Commission shall be guilty of a Class 3 misdemeanor. (1947, c. 1008, s. 30; 1949, c. 1132, s. 30; 1953, c. 1140, s. 4; 1957, c. 1152, s. 16; 1961, c. 472, ss. 8, 11; 1963, c. 1165, s. 1; 1993, c. 539, s. 489; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-326. Furnishing false information to the Commission; withholding information from the Commission.**

(a) Every person, firm or corporation operating under the jurisdiction of the Utilities Commission or who is required by law to file reports with the Commission who shall knowingly or willfully file or give false information to the Utilities Commission in any report, reply, response, or other statement or document furnished to the Commission shall be guilty of a Class 1 misdemeanor.

(b) Every person, firm, or corporation operating under the jurisdiction of the Utilities Commission or who is required by law to file reports with the Commission who shall willfully withhold clearly specified and reasonably obtainable information from the Commission in any report, response, reply or statement filed with the Commission in the performance of the duties of the Commission or who shall fail or refuse to file any report, response, reply or statement required by the Commission in the performance of the duties of the Commission shall be guilty of a Class 1 misdemeanor. (1969, c. 765, s. 1; 1993, c. 539, s. 490; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 62-327. Gifts to members of Commission, Commission employees, or Public Staff.**

It shall be unlawful for any officer, agent, employee, or attorney of any public utility or any public utility holding company, subsidiary, or affiliated company, to knowingly offer or make to any member of the Commission, Commission staff, or Public Staff, any gift of money, property, or anything of value. It shall be unlawful for any member of the Commission, Commission staff, or Public Staff to knowingly accept any gift of money, property, or anything of value from any officer, agent, employee, or attorney of any public utility or any public utility holding company, subsidiary, or affiliated company; provided, however, that it shall not be unlawful for members of the Commission, Commission staff, or Public Staff to attend public breakfasts, lunches, dinners, or banquets sponsored by such entities. Any person violating this section shall be guilty of a Class 3 misdemeanor and may only be fined in the discretion of the court; provided, further, that any member of the Commission staff, or member of the Public Staff violating this section shall also be subject to dismissal for cause. (1977, c. 468, s. 16; 1993, c. 539, s. 491; 1994, Ex. Sess., c. 24, s. 14(c); 2021-23, s. 24.)

**§ 62-328. Unauthorized use of Citizens Band equipment.**

(a) As used in this section, "Citizens Band radio equipment" means Citizens Band radio equipment authorized by the Federal Communications Commission.

(b) It shall be unlawful for any person willfully and knowingly to use Citizens Band radio equipment not authorized by the Federal Communications Commission. Unauthorized Citizens Band radio equipment includes the use of power amplifiers or equipment prohibited under applicable federal regulations.

(c) This section does not apply to any licensee that is exempted under the provisions of 47 U.S.C. § 302a(f)(2).

(d) Any person willfully and knowingly violating the provisions of this section shall be guilty of a Class 3 misdemeanor. (2004-72, s. 1.)

**§ 62-329: Reserved for future codification.**

**§ 62-330: Reserved for future codification.**

**§ 62-331: Reserved for future codification.**

**§ 62-332: Reserved for future codification.**

Article 16.

Security Provisions.

**§ 62-333. Screening employment applications.**

The Chief Personnel Officer, or that person's designee, of any public utility franchised to do business in North Carolina shall be permitted to obtain from the State Bureau of Investigation a confidential copy of criminal history record information for screening an applicant for employment with or an employee of a utility or utility contractor where the employment or job to be performed falls within a class or category of positions certified by the North Carolina Utilities Commission as permitting or requiring access to nuclear power facilities or access to or control over nuclear material.

The State Bureau of Investigation shall charge a reasonable fee to defray the administrative costs of providing criminal history record information for purposes of employment application screening. The State Bureau of Investigation is authorized to retain fees charged pursuant to this section and to expend those fees in accordance with the State Budget Act for the purpose of discharging its duties under this section. (1979, c. 796; 1979, 2nd Sess., c. 1212, s. 10; 2013-410, s. 6.1.)

**§ 62-334: Reserved for future codification purposes.**

**§ 62-335: Reserved for future codification purposes.**

**§ 62-336: Reserved for future codification purposes.**

**§ 62-337: Reserved for future codification purposes.**

**§ 62-338: Reserved for future codification purposes.**

**§ 62-339: Reserved for future codification purposes.**

**§ 62-340: Reserved for future codification purposes.**

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**§ 62-342: Reserved for future codification purposes.**

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**§ 62-347: Reserved for future codification purposes.**

**§ 62-348: Reserved for future codification purposes.**

**§ 62-349: Reserved for future codification purposes.**

Article 17.

Miscellaneous Provisions.

**§ 62-350. (See Editor's note) Regulation of pole attachments.**

(a) A municipality, or a membership corporation organized under Chapter 117 of the General Statutes, that owns or controls poles, ducts, or conduits, but which is exempt from regulation under section 224 of the Communications Act of 1934, as amended, shall allow any communications service provider to utilize its poles, ducts, and conduits at just, reasonable, and nondiscriminatory rates, terms, and conditions adopted pursuant to negotiated or adjudicated agreements. A request to utilize poles, ducts, or conduits under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the municipality or membership corporation to be reimbursed by the communications service provider. In granting a request under this section, a municipality or membership corporation shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration. Any fees due from a communications service provider accessing or attaching to poles, ducts, or conduits under this section must be billed by separate invoice and shall not be bundled with charges for electric service.

(b) Following receipt of a request from a communications service provider, a municipality or membership corporation shall negotiate concerning the rates, terms, and conditions for the use of or attachment to the poles, ducts, or conduits that it owns or controls. Following a request from a party to an existing agreement made pursuant to the terms of the agreement or made within 120 days prior to or following the end of the term of the agreement, the communications service provider and the municipality or membership corporation which is a party to that agreement shall negotiate concerning the rates, terms, and conditions for the continued use of or attachment to the poles, ducts, or conduits owned or controlled by one of the parties to the agreement. The negotiations shall include matters customary to such negotiations, including a fair and reasonable rate for use of facilities, indemnification by the attaching entity for losses caused in connection with the attachments, and the removal, replacement, or repair of installed facilities for safety reasons. Upon request, a party shall state in writing its objections to any proposed rate, terms, and conditions of the other party.

(c) In the event the parties are unable to reach an agreement within 90 days of a request to negotiate pursuant to subsection (b) of this section, or if either party believes in good faith that an impasse has been reached prior to the expiration of the 90-day period, either party may initiate proceedings to resolve the dispute before the Commission. The Commission shall have exclusive jurisdiction over proceedings arising under this section and shall adjudicate disputes arising under this section on a case-by-case basis. The Commission shall not exercise general ratemaking authority over communication service provider utilization of municipal or membership

corporation facilities. This section does not impact or expand the Commission's authority under G.S. 62-133.5(h) or (m). The Public Staff may, at the discretion of the Commission, be made a party to any proceedings under this section as may be appropriate to serve the using and consuming public. The parties shall identify with specificity in their respective filings the issues in dispute. The Commission, in its discretion, may consider any evidence or ratemaking methodologies offered or proposed by the parties and shall resolve any dispute identified in the filings consistent with the public interest and necessity so as to derive just and reasonable rates, terms, and conditions. The Commission shall apply any new rate adopted as a result of the action retroactively to the date immediately following the expiration of the 90-day negotiating period or initiation of the proceeding, whichever is earlier. If the new rate is for the continuation of an existing agreement, the new rate shall apply retroactively to the date immediately following the end of the existing agreement. Prior to initiating any proceedings under this subsection, a party must pay any undisputed fees related to the use of poles, ducts, or conduits which are due and owing under a preexisting agreement with the municipality or membership corporation. In any proceeding brought under this subsection, the Commission may resolve any existing disputes regarding fees alleged to be owing under a preexisting agreement or regarding safety compliance arising under subsection (d) of this section. The provisions of this section do not apply to an entity whose poles, ducts, and conduits are subject to regulation under section 224 of the Communications Act of 1934, as amended.

(d) In the absence of an agreement between an attaching party and the involved municipality or membership corporation that provides otherwise, the following shall apply:

- (1) When the lines, equipment, or attachments of a communications service provider that are attached to the poles, ducts, or conduits of a municipality or membership corporation do not comply with applicable safety rules and regulations set forth in subsection (a) of this section, the municipality or membership corporation may provide written notice of the noncompliant lines, equipment, or attachments, and make demand that the communications service provider bring such lines, equipment, and attachments into compliance with the specified safety rules and regulations. Within the 60-day period following the date of the notice and demand, the communications service provider shall either contest the notice of noncompliance in writing or bring its lines, equipment, and attachments into compliance with the specified applicable safety rules and regulations. If the work required to bring the facilities into compliance is not reasonably capable of being completed within the 60-day period, the period for compliance shall be extended as may be deemed reasonable under the circumstances so long as the communications service provider promptly commences and diligently pursues within the 60-day period such actions as are reasonably necessary to cause the facilities to be brought into compliance.
- (2) When the communications service provider or, if applicable, another responsible attaching party fails to bring any noncompliant lines, equipment, or attachments into compliance (i) within the 60-day period following the date of notice and demand pursuant to subdivision (1) of this subsection, or (ii) within 120 days following the date of notice and demand when the period is extended pursuant to subdivision (1) of this subsection, the municipality or membership corporation shall be entitled to take such remedial actions as are reasonably necessary to bring the lines, equipment, and attachments of the communications

service provider into compliance, including removal of the lines, equipment, or attachments should removal be required to achieve compliance with the applicable safety rules and regulations.

- (3) A municipality or membership corporation that removes or brings into compliance the noncompliant lines, equipment, or attachments of a communications service provider pursuant to subdivision (2) of this subsection shall be entitled to recover its reasonable and actual costs for such activities from the communications service provider or other attaching party whose action or inaction caused the noncompliance, and the responsible attaching party shall reimburse the municipality or membership corporation within 45 days of being billed for such costs.
- (4) All attaching parties shall work cooperatively to determine the causation of, and to effectuate any remedy for, noncompliant lines, equipment, and attachments. In the event of disputes under this subsection, the involved municipality or membership corporation or any attaching party may initiate proceedings to resolve any dispute before the Commission. The Commission shall have exclusive jurisdiction over proceedings arising under this section and shall adjudicate disputes arising under this section on a case-by-case basis. The Commission shall not exercise general ratemaking authority over communication service provider utilization of municipal or membership corporation facilities. This section does not impact or expand the Commission's authority under G.S. 62-133.5(h) or (m). The Public Staff may, at the discretion of the Commission, be made a party to any proceedings under this section as may be appropriate to serve the using and consuming public. The Commission shall resolve such disputes consistent with the public interest and necessity. Nothing herein shall prevent a municipality or membership corporation from taking such action as may be necessary to remedy any exigent issue which is an imminent threat of death or injury to persons or damage to property.

(e) For purposes of this section, the term "communications service provider" means a person or entity that provides or intends to provide: (i) telephone service as a public utility under Chapter 62 of the General Statutes or as a telephone membership corporation organized under Chapter 117 of the General Statutes; (ii) broadband service, but excluding broadband service over energized electrical conductors owned by a municipality or membership corporation; or (iii) cable service over a cable system as those terms are defined in Article 42 of Chapter 66 of the General Statutes.

(f) The Commission may adopt such rules as it deems necessary to exercise its responsibility to adjudicate any disputes arising under this section.

(g) Nothing herein shall preclude a party from bringing civil action in the appropriate division of the General Court of Justice seeking enforcement of an agreement concerning the rates, terms, and conditions for the use of or attachment to the poles, ducts, or conduits of a municipality or membership corporation.

(h) As part of final adjudication, the Commission may assess the costs, not to exceed ten thousand dollars (\$10,000), of adjudicating a dispute under this section against the parties to the dispute proceeding. If the Public Staff is a party to a dispute proceeding and the Executive Director of the Public Staff deems it necessary to hire expert witnesses or other individuals with professional expertise to assist the Public Staff in the dispute proceeding, the Commission may

assess such additional costs incurred by the Public Staff by allocating such costs against the parties to the dispute proceeding. (2009-278, s. 1; 2015-119, ss. 1-5; 2021-23, s. 25.)

**§ 62-351. Demand-side management policy; pilot project.**

(a) Declaration of Policy. – It is the policy of the State for government-owned facilities that have backup or emergency generators that meet the criteria of utility demand-side management programs or rates to enroll in such programs or rates to the extent those programs or rates are available without diminishing the purpose or use of the facility having the backup or emergency generator.

(b) Department of Public Safety Pilot Program. – By no later than January 1, 2018, the Department of Public Safety shall designate a backup or emergency generator to enroll in the demand-side management program or rate available that would allow electricity load to be shifted to its generator in response to utility-administered programs.

(c) Report. – The Department of Public Safety shall report to the Joint Legislative Commission on Energy Policy by January 31 of each year on the status of the designated backup or emergency generator and whether it is enrolled in the utility demand-side response program or rate.

(d) Sunset. – The pilot program and report required by subsections (b) and (c) of this section shall expire on January 1, 2020. (2017-192, s. 9.)

**§ 62-352. Facilities for hearings outside the Commission's offices; security; costs of hearings.**

The senior resident superior court judge shall provide suitable facilities for the conduct of hearings under this Chapter in the county or counties within the judge's district at the time the Commission schedules hearings therein. The senior resident superior court judge shall provide or arrange for security at the Commission hearings upon the request of the chair. The Commission shall promptly reimburse the court system or the local government, as the case may be, for the actual costs of conducting the hearings, and the Commission may charge such costs to the involved utility or utilities in cases involving class A or B utilities. (2021-23, s. 20.)