

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**Session 2011**

**Legislative Fiscal Note**

**BILL NUMBER:** House Bill 457 (First Edition)

**SHORT TITLE:** Municipal Electric Utilities/UC Oversight.

**SPONSOR(S):** Representatives Tolson, Farmer-Butterfield, Bryant, and Collins

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2011-12</u></b>	<b><u>FY 2012-13</u></b>	<b><u>FY 2013-14</u></b>	<b><u>FY 2014-15</u></b>	<b><u>FY 2015-16</u></b>
<b>REVENUES</b>					
<b>Utilities Commission &amp; Public Staff Special Fund</b>	<b>\$901,957</b>	<b>\$944,078</b>	<b>\$979,293</b>	<b>\$1,011,707</b>	<b>\$1,045,903</b>
<b>EXPENDITURES</b>					
<b>Utilities Commission</b>	<b>\$373,910</b>	<b>\$407,076</b>	<b>\$442,410</b>	<b>\$471,786</b>	<b>\$496,508</b>
<b>Public Staff</b>	<b>\$928,116</b>	<b>\$916,973</b>	<b>\$987,709</b>	<b>\$1,046,609</b>	<b>\$1,096,934</b>
<b>NCEMPA cities</b>	<b>**At least \$901,957 annually. See Assumptions &amp; Methodology**</b>				
<b>POSITIONS (cumulative):</b>	<b>18.0</b>	<b>18.0</b>	<b>18.0</b>	<b>18.0</b>	<b>18.0</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Utilities Commission, Utilities Commission Public Staff, NCEMPA municipalities					
<b>EFFECTIVE DATE:</b> October 1, 2011					

**BILL SUMMARY:**

HB 457 enacts new GS 62-55 to provide that the North Carolina Utilities Commission (the Commission) has oversight of the rates for electric service established and services furnished by a municipality, including a municipality that is a member of a joint municipal power agency under GS 159B that operates a municipal electric utility under GS 160A-311(1). The bill authorizes the Commission to consider the factors provided in GS 62-133 and GS 62-134 in determining whether the rates for electrical service are fair to the consumer and the municipality as operator of the

electric utility. It further provides that the Commission may issue orders to make necessary adjustments after a determination at a hearing as to whether the rates are just and reasonable. It also provides that the Commission may enter an order requiring changes and improvements if the Commission determines via a hearing that the service furnished by the municipal electric utility is inadequate. In addition, the bill makes conforming changes to GS 62-3(23)d, GS 62-15(d), GS 160A-312, and GS 160A-314. Finally, it provides that this act only applies to the cities and towns in eastern North Carolina that comprise the North Carolina Eastern Municipal Power Agency (NCEMPA) on the date that this act becomes law. It is effective October 1, 2011 and applies to all rates for electric service established and all service provided by a NCEMPA member city or town on or after that date.

Source: Bill Digest

### **ASSUMPTIONS AND METHODOLOGY:**

There are 32 municipalities that comprise NCEMPA. This fiscal note first estimates the revenues that would be realized by the Utilities Commission and the Public Staff and then estimates the costs to the Utilities Commission, the Public Staff, and the NCEMPA municipalities.

#### **Revenues**

If the 32 NCEMPA municipalities were regulated by the Utilities Commission (“the Commission”), they would be required to pay the Commission’s assessment. The assessment is specified each year in the Appropriations Act and has been set at 0.12% since 1997. This note assumes a rate of 0.12%.

In 2008, the 32 municipalities sold 6,990,695 MWh of electricity at a rate of \$108.72 per MWh and revenues of \$760 million. NCEMPA has projected that 2011 sales for these 32 municipalities will be 6,913,548 MWh.<sup>1</sup> Revenues were projected using the 2008 data for MWh rates and are projected to be \$751.6 million.

Applying the Commission’s assessment rate of 0.12% to revenue of \$751.6 million, the municipalities would have to pay \$901,957 to the Utilities Commission in FY 2011-12. The bill is effective as of October 1, 2011, and thus the municipalities would have to pay the assessment on 2011 revenues.

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<sup>1</sup> As found in NCEMPA’s 2010 REPS compliance plan filed September 1, 2010, in Docket No. E-100, Sub 129: <http://ncuc.commerce.state.nc.us/cgi-bin/webview/senddoc.pgm?dispfmt=&itype=Q&authorization=&parm2=4AAAAA44201B&parm3=000133324>. See Appendix B.

Fiscal Research applied an inflationary factor for electricity to the first-year revenue estimate to determine the following five-year revenue projection:

<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>
\$901,957	\$944,078	\$979,293	\$1,011,707	\$1,045,903

**Expenditures**

As a result of this bill, there would be increased workload at both the Utilities Commission and the Public Staff. There would also be an increased cost to the NCEMPA entities; this note provides a partial estimate of those costs.

**Utilities Commission**

The Commission anticipates a significantly increased workload for regulating the NCEMPA municipalities. Each of the 32 NCEMPA municipalities would have multiple documents to file and issues to take before the Commission. First, they would have to file applications for a certificate of public convenience and necessity to operate as public utilities. In addition, they would have dockets to handle formal customer complaints, rate rider requests, REPS rider requests, annual fuel rider requests, applications for approval of debt and securities issuance, dockets concerning affiliated transactions, and possibly issues concerning quality of service provided by the municipalities to their customers.

To handle the increased workload, the Commission estimates it will need four additional FTE: one clerk (processing assistant V), two operations/financial analysts, and one attorney. The Commission feels that these positions would need to have a certain level of expertise and experience that justifies hiring new staff at salaries comparable to current staff. Following is the first year cost estimate for these positions from the Utilities Commission. The Commission estimated all of these positions starting July 1, 2011.

<b><u>Position Title</u></b>	<b><u>Grade</u></b>	<b><u>Effective Date</u></b>	<b><u>Annual Salary</u></b>	<b><u>FTE</u></b>	<b><u>Total Salary &amp; Benefits</u></b>
Processing Assistant V	61	07/01/2011	\$35,153	1.00	\$46,467
Financial Analyst	81	07/01/2011	\$86,351	1.00	\$106,962
Financial Analyst	81	07/01/2011	\$86,351	1.00	\$106,962
Attorney	86	07/01/2011	\$91,900	1.00	\$113,519

The Commission did not provide an estimate for any operating expenses associated with these positions.

*Justification for Processing Assistant V*

In the past year, the Chief Clerk’s Office received 10,692 filings, and there are currently seven clerks in the Office. Filings can vary widely in the time each one takes, but using a simple

average, it's estimated that each clerk handles approximately 1,527 filings per year. The Commission estimates that each NCEMPA municipality would generate 50 filings per year or 1,600 total filings, the equivalent of one new clerk (Processing Assistant V).

*Justification for Financial Analysts*

The Operations Division worked on 2,216 orders in the past year, and there are currently 11 financial analysts in the Operations Division. Therefore, each financial analyst, on average, works on 201 orders per year. The Commission estimates that each of the NCEMPA municipalities will require 10 orders per year or 320 total orders. That equates to a need for 1.6 FTE.

The existing 11 analysts were also involved in 10 rate case proceedings last year, which means that each analyst works on approximately one rate case per year. It is not known how many rate cases each year the 32 NCEMPA municipalities would generate, but it would be at least a few (up to 32 maximum), which would require a corresponding number of financial analysts.

*Justification for Attorney*

Each year, the Commission receives, on average, 10,692 filings and issues 2,216 orders. Five attorneys currently work on these filings and orders. It should be noted that filings and orders can vary widely in the amount of time they take – from thousands of hours for a rate case order to an “extension of time to file” comment that would take less than one hour. Using a simple average calculation, one can estimate that each of the five current attorneys handles 443.20 orders per year. Using an average of 10 new orders per year for each of the 32 NCEMPA municipalities, there would 320 orders per year, or not quite one full attorney position. It is not known how many rate cases the NCEMPA municipalities would generate each year, which might result in a significant increase in the attorney workload.

Fiscal Research agrees with the Commission’s staffing estimates. Provided below is a five-year cost projection using standard inflation rates for salaries and benefits.

<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>
\$373,910	\$407,076	\$442,410	\$471,786	\$496,508

**Public Staff**

The Public Staff provided information stating it would need 18 new staff members to accommodate the increased workload. It based these estimates on the work it currently does related to New River Light and Power, a small electric utility operated by Appalachian State University that also serves the Town of Boone and surrounding community. The Public Staff adjusted these numbers to account for differences in the population between the New River service area and the 32 municipalities affected by this bill.

The Public Staff assumed that each municipality would have a rate case every two years; it based this estimate on information that these municipalities change their rates at least every other year and some do so every year. It would need staff to conduct investigations and audits, to draft and pre-file testimony, to attend public hearings in the municipalities, to testify at evidentiary hearings,

and to draft and submit proposed orders. The Public Staff feels it will need 12 new positions related to these rate cases:

<u>Position Title</u>	<u>Grade</u>	<u>Effective Date</u>	<u>Annual Salary</u>	<u>FTE</u>	<u>Total Salary &amp; Benefits</u>
Attorney	82	07/01/2011	\$53,805	1.00	\$68,506
Attorney	82	07/01/2011	\$53,805	1.00	\$68,506
Financial Analyst	78	07/01/2011	\$37,074	1.00	\$48,737
Accountant	78	07/01/2011	\$35,585	1.00	\$46,977
Accountant	78	07/01/2011	\$35,585	1.00	\$46,977
Accountant	78	07/01/2011	\$35,585	1.00	\$46,977
Accountant	78	07/01/2011	\$58,000	1.00	\$73,463
Accountant	78	07/01/2011	\$35,585	1.00	\$46,977
Engineer	81	07/01/2011	\$45,387	1.00	\$58,559
Engineer	81	07/01/2011	\$45,387	1.00	\$58,559
Program Assistant IV	59	07/01/2011	\$24,092	1.00	\$33,397
Program Assistant IV	59	07/01/2011	\$24,092	1.00	\$33,397

*Justification for Rate Case Staff*

Public Staff states they will need the following additional positions: two attorneys, five accountants, two engineers, two Program assistants, and one financial analyst. It based its estimate on the work it does for New River Power and Light, which has 7,242 customers, revenues of \$15,697,668, and sales of 224,233,176 kWh. A New River general rate case has a task force of two attorneys, two accountants, two engineers and one economic analyst.

The Public Staff also estimates that it will need six additional staff to handle service complaints.

<u>Position Title</u>	<u>Grade</u>	<u>Effective Date</u>	<u>Annual Salary</u>	<u>FTE</u>	<u>Total Salary &amp; Benefits</u>
Complaint Analyst	66	07/01/2011	\$37,100	1.00	\$48,767
Complaint Analyst	66	07/01/2011	\$37,100	1.00	\$48,767
Complaint Analyst	66	07/01/2011	\$37,100	1.00	\$48,767
Complaint Analyst	66	07/01/2011	\$37,100	1.00	\$48,767
Program Assistant IV	59	07/01/2011	\$24,092	1.00	\$33,397
Engineer	81	07/01/2011	\$45,387	1.00	\$58,559

*Justification for Complaint Analysts, Program Assistant, and Engineer*

The Public Staff currently has nine consumer analysts and four administrative assistants with engineers and attorneys assisting them as needed. In the last year Public Staff handled 16,181

consumer complaints, which equates to almost 1,800 complaints per analyst and 4,045 per administrative assistant. The Public Staff states that they currently regulate 2,065 entities. A simple average calculation shows that there are approximately eight complaints per year per regulated entity.

The Public Staff estimates that it will need the following annual operating costs for these 18 positions:

<b>Item</b>	<b>Amount</b>
Purchased Services	\$158,400
Supplies	\$35,800
Equipment	\$100,000
Total	\$294,200

The Purchased Services line includes estimates for rent, as the Public Staff does not currently have enough office space to accommodate 18 new employees.

Public Staff also notes that the initial rulemaking and baseline auditing for each of the 32 municipalities would require additional staff time and potentially require hiring outside consultants and auditors. Public Staff did not provide an estimate for these costs.

Fiscal Research partially agrees with the Public Staff’s estimate for staffing and operating.

*Rate Case Staff*

The estimate for rate case staff seems to be underestimated, given the current workload demands of New River rate cases. However, Public Staff states that it was being conservative in its estimates and that it anticipates that some of the work would be absorbed by existing staff. Fiscal Research therefore concurs with Public Staff’s analysis and assertion that existing staff could absorb some of the workload. Provided below is a five-year cost projection for the 12 positions using standard inflation rates for salaries and benefits.

<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>
\$604,548	\$658,171	\$715,301	\$762,797	\$802,767

*Complaint Staff*

For Complaint Analysts, Fiscal Research does not feel that the current workload numbers provided show a need for that many new staff for the additional 32 entities. Each analyst currently handles nearly 1,800 complaints. It seems reasonable that these 32 new entities would have no more than 1,800 complaints; that would be an average of 56 complaints per NCEMPA municipality while the current average is eight per regulated entity. Given that these entities would be newly regulated, Fiscal Research thinks there may potentially be an extraordinary number of complaints per year and that one new complaint analyst is justified. Likewise, 0.5 FTE is justified for the Program Assistant and the Engineer. Fiscal Research’s estimate is as follows:

<u>Position Title</u>	<u>Grade</u>	<u>Effective Date</u>	<u>Annual Salary</u>	<u>FTE</u>	<u>Total Salary &amp; Benefits</u>
Complaint Analyst	66	07/01/2011	\$37,100	1.00	\$48,767
Program Assistant IV	59	07/01/2011	\$24,092	0.5	\$16,699
Engineer	81	07/01/2011	\$45,387	0.5	\$29,280

Provided below is a five-year cost projection using standard inflation rates for salaries and benefits.

<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
\$94,746	\$103,150	\$112,103	\$119,547	\$125,811

*Operating Expenses*

Fiscal Research revised the estimate for operating expenses because of Fiscal’s estimate of the need for 14 new FTE, not 18. Also, funding for equipment was eliminated after year 1 because those are typically one-time purchases (desks, chairs, and the like).

	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
Purchased Services	\$123,200	\$126,958	\$130,754	\$133,983	\$137,319
Supplies	\$27,844	\$28,694	\$29,552	\$30,282	\$31,036
Equipment	\$77,778	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$228,822</b>	<b>\$155,651</b>	<b>\$160,305</b>	<b>\$164,265</b>	<b>\$168,355</b>

**NCEMPA Entities**

NCEMPA entities would have to pay the regulatory assessment each year – a total cost of \$901,957 in the first year. They would also most likely have to hire outside attorneys and accountants to help them prepare and present their rate cases to the Commission and the Public Staff. Fiscal Research does not have an estimate of these costs as they would vary widely across the 32 cities and towns and depend on current local government staffing levels and expertise.

**SOURCES OF DATA:** Utilities Commission, Utilities Commission Public Staff, Local Government Commission, Moody’s economy.com

**TECHNICAL CONSIDERATIONS:** None

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