

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 rate-making 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;
- (7) To seek to adjust the rate of growth of regulated energy supply facilities serving the State to the policy requirements of statewide development;
- (8) To cooperate with other states and with the federal government in promoting and coordinating interstate and intrastate public utility service and reliability of public utility energy supply;

- 1 (9) To facilitate the construction of facilities in and the extension of natural gas
2 service to unserved areas in order to promote the public welfare throughout
3 the State and to that end to authorize the creation of expansion funds for
4 natural gas local distribution companies or gas districts to be administered
5 under the supervision of the North Carolina Utilities Commission; and
6 (10) To promote the development of renewable energy and energy efficiency
7 through the implementation of a Renewable Energy and Energy Efficiency
8 Portfolio Standard (REPS) that will do all of the following:
9 a. Diversify the resources used to reliably meet the energy needs of
10 consumers in the State.
11 b. Provide greater energy security through the use of indigenous energy
12 resources available within the State.
13 c. Encourage private investment in renewable energy and energy
14 efficiency.
15 d. Provide improved air quality and other benefits to energy consumers
16 and citizens of the State.

17 (b) To these ends, therefore, authority shall be vested in the North Carolina Utilities
18 Commission to regulate public utilities generally, their rates, services and operations, and their
19 expansion in relation to long-term energy conservation and management policies and statewide
20 development requirements, and in the manner and in accordance with the policies set forth in
21 this Chapter. Nothing in this Chapter shall be construed to imply any extension of Utilities
22 Commission regulatory jurisdiction over any industry or enterprise that is not subject to the
23 regulatory jurisdiction of said Commission.

24 Because of technological changes in the equipment and facilities now available and needed
25 to provide telephone and telecommunications services, changes in regulatory policies by the
26 federal government, and changes resulting from the court-ordered divestiture of the American
27 Telephone and Telegraph Company, competitive offerings of certain types of telephone and
28 telecommunications services may be in the public interest. Consequently, authority shall be
29 vested in the North Carolina Utilities Commission to allow competitive offerings of local
30 exchange, exchange access, and long distance services by public utilities defined in G.S.
31 62-3(23)a.6. and certified in accordance with the provisions of G.S. 62-110, and the
32 Commission is further authorized after notice to affected parties and hearing to deregulate or to
33 exempt from regulation under any or all provisions of this Chapter: (i) a service provided by
34 any public utility as defined in G.S. 62-3(23)a.6. upon a finding that such service is competitive
35 and that such deregulation or exemption from regulation is in the public interest; or (ii) a public
36 utility as defined in G.S. 62-3(23)a.6., or a portion of the business of such public utility, upon a
37 finding that the service or business of such public utility is competitive and that such
38 deregulation or exemption from regulation is in the public interest.

39 Notwithstanding the provisions of G.S. 62-110(b) and G.S. 62-134(h), the following
40 services provided by public utilities defined in G.S. 62-3(23)a.6. are sufficiently competitive
41 and shall no longer be regulated by the Commission: (i) intraLATA long distance service; (ii)
42 interLATA long distance service; and (iii) long distance operator services. A public utility
43 providing such services shall be permitted, at its own election, to file and maintain tariffs for
44 such services with the Commission up to and including September 1, 2003. Nothing in this
45 subsection shall limit the Commission's authority regarding certification of providers of such
46 services or its authority to hear and resolve complaints against providers of such services
47 alleged to have made changes to the services of customers or imposed charges without
48 appropriate authorization. For purposes of this subsection, and notwithstanding G.S. 62-110(b),
49 "long distance services" shall not include existing or future extended area service, local
50 measured service, or other local calling arrangements, and any future extended area service

1 shall be implemented consistent with Commission rules governing extended area service
2 existing as of May 1, 2003.

3 The North Carolina Utilities Commission may develop regulatory policies to govern the
4 provision of telecommunications services to the public which promote efficiency, technological
5 innovation, economic growth, and permit telecommunications utilities a reasonable opportunity
6 to compete in an emerging competitive environment, giving due regard to consumers,
7 stockholders, and maintenance of reasonably affordable local exchange service and long
8 distance service.

9 (b1) Broadband service provided by public utilities as defined in G.S. 62-3(23)a.6. is
10 sufficiently competitive and shall not be regulated by the Commission.

11 (c) The policy and authority stated in this section shall be applicable to common
12 carriers of passengers by motor vehicle and their regulation by the North Carolina Utilities
13 Commission only to the extent that they are consistent with the provisions of the Bus
14 Regulatory Reform Act of 1985. (1963, c. 1165, s. 1; 1975, c. 877, s. 2; 1977, c. 691, s. 1; 1983
15 (Reg. Sess., 1984), c. 1043, s. 1; 1985, c. 676, s. 3; 1987, c. 354; 1989, c. 112, s. 1; 1991, c.
16 598, s. 1; 1995, c. 27, s. 1; 1995 (Reg. Sess., 1996), c. 742, ss. 29-32; 1998-132, s. 18; 2003-91,
17 s. 1; 2005-95, s. 1; 2007-397, s. 1.)
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19 § 62-3. Definitions.

20 As used in this Chapter, unless the context otherwise requires, the term:

- 21 (1) "Broadband service" means any service that consists of or includes a
22 high-speed access capability to transmit at a rate of not less than 200 kilobits
23 per second in either the upstream or downstream direction and either (i) is
24 used to provide access to the Internet, or (ii) provides computer processing,
25 information storage, information content, or protocol conversion, including
26 any service applications or information service provided over such
27 high-speed access service. "Broadband service" does not include intrastate
28 service that was tariffed by the Commission and in effect as of the effective
29 date of this subdivision.
- 30 (1a) "Broker," with regard to motor carriers of passengers, means any person not
31 included in the term "motor carrier" and not a bona fide employee or agent
32 of any such carrier, who or which as principal or agent engages in the
33 business of selling or offering for sale any transportation of passengers by
34 motor carrier, or negotiates for or holds himself, or itself, out by solicitation,
35 advertisements, or otherwise, as one who sells, provides, furnishes,
36 contracts, or arranges for such transportation for compensation, either
37 directly or indirectly.
- 38 (1b) "Bus company" means any common carrier by motor vehicle which holds
39 itself out to the general public to engage in the transportation by motor
40 vehicle in intrastate commerce of passengers over fixed routes or in charter
41 operations, or both, except as exempted in G.S. 62-260.
- 42 (2) "Certificate" means a certificate of public convenience and necessity issued
43 by the Commission to a public utility or a certificate of authority issued by
44 the Commission to a bus company.
- 45 (3) "Certified mail" means such mail only when a return receipt is requested.
- 46 (4) "Charter operations" with regard to bus companies means the transportation
47 of a group of persons for sightseeing purposes, pleasure tours, and other
48 types of special operations, or the transportation of a group of persons who,
49 pursuant to a common purpose and under a single contract, and for a fixed
50 charge for the vehicle, have acquired the exclusive use of a
51 passenger-carrying motor vehicle to travel together as a group to a specified

- 1 destination or for a particular itinerary, either agreed upon in advance or
2 modified by the chartered group after having left the place of origin.
- 3 (5) "Commission" means the North Carolina Utilities Commission.
- 4 (6) "Common carrier" means any person, other than a carrier by rail, which
5 holds itself out to the general public to engage in transportation of persons or
6 household goods for compensation, including transportation by bus, truck,
7 boat or other conveyance, except as exempted in G.S. 62-260.
- 8 (7) "Common carrier by motor vehicle" means any person which holds itself out
9 to the general public to engage in the transportation by motor vehicle in
10 intrastate commerce of persons or household goods or any class or classes
11 thereof for compensation, whether over regular or irregular routes, or in
12 charter operations, except as exempted in G.S. 62-260.
- 13 (7a) "Competing local provider" means any person applying for a certificate to
14 provide local exchange or exchange access services in competition with a
15 local exchange company.
- 16 (8), (9) Repealed by Session Laws 1995, c. 523, s. 1.
- 17 (9a) "Fixed route" means the specific highway or highways over which a bus
18 company is authorized to operate between fixed termini.
- 19 (10) "Foreign commerce" means commerce between any place in the United
20 States and any place in a foreign country, or between places in the United
21 States through any foreign country.
- 22 (11) "Franchise" means the grant of authority by the Commission to any person
23 to engage in business as a public utility, whether or not exclusive or shared
24 with others or restricted as to terms and conditions and whether described by
25 area or territory or not, and includes certificates, and all other forms of
26 licenses or orders and decisions granting such authority.
- 27 (12) "Highway" means any road or street in this State used by the public or
28 dedicated or appropriated to public use.
- 29 (13) "Industrial plant" means any plant, mill, or factory engaged in the business
30 of manufacturing.
- 31 (14) "Interstate commerce" means commerce between any place in a state and
32 any place in another state or between places in the same state through
33 another state.
- 34 (15) "Intrastate commerce" means commerce between points and over a route or
35 within a territory wholly within this State, which commerce is not a part of a
36 prior or subsequent movement to or from points outside of this State in
37 interstate or foreign commerce, and includes all transportation within this
38 State for compensation in interstate or foreign commerce which has been
39 exempted by Congress from federal regulation.
- 40 (16) "Intrastate operations" means the transportation of persons or household
41 goods for compensation in intrastate commerce.
- 42 (16a) "Local exchange company" means a person holding, on January 1, 1995, a
43 certificate to provide local exchange services or exchange access services.
- 44 (17) "Motor carrier" means a common carrier by motor vehicle.
- 45 (18) "Motor vehicle" means any vehicle, machine, tractor, semi-trailer, or any
46 combination thereof, which is propelled or drawn by mechanical power and
47 used upon the highways within the State.
- 48 (19) "Municipality" means any incorporated community, whether designated in
49 its charter as a city, town, or village.
- 50 (20) Repealed by Session Laws 1995, c. 523, s. 1.

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- (21) "Person" means a corporation, individual, copartnership, company, association, or any combination of individuals or organizations doing business as a unit, and includes any trustee, receiver, assignee, lessee, or personal representative thereof.
- (22) "Private carrier" means any person, other than a carrier by rail, not included in the definitions of common carrier, which transports in intrastate commerce in its own vehicle or vehicles property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or when such transportation is purely an incidental adjunct to some other established private business owned and operated by such person other than the transportation of household goods for compensation.
- (23) a. "Public utility" means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:
 - 1. Producing, generating, transmitting, delivering or furnishing electricity, piped gas, steam or any other like agency for the production of light, heat or power to or for the public for compensation; provided, however, that the term "public utility" shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is for such person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation;
 - 2. Diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation, or operating a public sewerage system for compensation; provided, however, that the term "public utility" shall not include any person or company whose sole operation consists of selling water to less than 15 residential customers, except that any person or company which constructs a water system in a subdivision with plans for 15 or more lots and which holds itself out by contracts or other means at the time of said construction to serve an area containing more than 15 residential building lots shall be a public utility at the time of such planning or holding out to serve such 15 or more building lots, without regard to the number of actual customers connected;
 - 3. Transporting persons or household goods by street, suburban or interurban bus for the public for compensation;
 - 4. Transporting persons or household goods by motor vehicles or any other form of transportation for the public for compensation, except motor carriers exempted in G.S. 62-260, carriers by rail, and carriers by air;
 - 5. Transporting or conveying gas, crude oil or other fluid substance by pipeline for the public for compensation;
 - 6. Conveying or transmitting messages or communications by telephone or telegraph, or any other means of transmission, where such service is offered to the public for compensation.
- b. The term "public utility" shall for rate-making purposes include any person producing, generating or furnishing any of the foregoing

1 services to another person for distribution to or for the public for
2 compensation.

3 c. The term "public utility" shall include all persons affiliated through
4 stock ownership with a public utility doing business in this State as
5 parent corporation or subsidiary corporation as defined in G.S. 55-2
6 to such an extent that the Commission shall find that such affiliation
7 has an effect on the rates or service of such public utility.

8 d. The term "public utility," except as otherwise expressly provided in
9 this Chapter, shall not include a municipality, an authority organized
10 under the North Carolina Water and Sewer Authorities Act, electric
11 or telephone membership corporation; or any person not otherwise a
12 public utility who furnishes such service or commodity only to
13 himself, his employees or tenants when such service or commodity is
14 not resold to or used by others; provided, however, that any person
15 other than a nonprofit organization serving only its members, who
16 distributes or provides utility service to his employees or tenants by
17 individual meters or by other coin-operated devices with a charge for
18 metered or coin-operated utility service shall be a public utility
19 within the definition and meaning of this Chapter with respect to the
20 regulation of rates and provisions of service rendered through such
21 meter or coin-operated device imposing such separate metered utility
22 charge. If any person conducting a public utility shall also conduct
23 any enterprise not a public utility, such enterprise is not subject to the
24 provisions of this Chapter. A water or sewer system owned by a
25 homeowners' association that provides water or sewer service only to
26 members or leaseholds of members is not subject to the provisions of
27 this Chapter.

28 e. The term "public utility" shall include the University of North
29 Carolina insofar as said University supplies telephone service,
30 electricity or water to the public for compensation from the
31 University Enterprises defined in G.S. 116-41.1(9).

32 f. The term "public utility" shall include the Town of Pineville insofar
33 as said town supplies telephone services to the public for
34 compensation. The territory to be served by the Town of Pineville in
35 furnishing telephone services, subject to the Public Utilities Act,
36 shall include the town limits as they exist on May 8, 1973, and shall
37 also include the area proposed to be annexed under the town's
38 ordinance adopted May 3, 1971, until January 1, 1975.

39 g. The term "public utility" shall not include a hotel, motel, time share
40 or condominium complex operated primarily to serve transient
41 occupants, which imposes charges to occupants for local,
42 long-distance, or wide area telecommunication services when such
43 calls are completed through the use of facilities provided by a public
44 utility, and provided further that the local services received are rated
45 in accordance with the provisions of G.S. 62-110(d) and the
46 applicable charges for telephone calls are prominently displayed in
47 each area where occupant rooms are located.

48 h. The term "public utility" shall not include the resale of electricity by
49 (i) a campground operated primarily to serve transient occupants, or
50 (ii) a marina; provided that (i) the campground or marina charges no
51 more than the actual cost of the electricity supplied to it, (ii) the

1 amount of electricity used by each campsite or marina slip occupant
2 is measured by an individual metering device, (iii) the applicable
3 rates are prominently displayed at or near each campsite or marina
4 slip, and (iv) the campground or marina only resells electricity to
5 campsite or marina slip occupants.

6 i. The term "public utility" shall not include the State, the Office of
7 Information Technology Services, or the Microelectronics Center of
8 North Carolina in the provision or sharing of switched broadband
9 telecommunications services with non-State entities or organizations
10 of the kind or type set forth in G.S. 143B-426.39.

11 j. The term "public utility" shall not include any person, not otherwise
12 a public utility, conveying or transmitting messages or
13 communications by mobile radio communications service. Mobile
14 radio communications service includes one-way or two-way radio
15 service provided to mobile or fixed stations or receivers using mobile
16 radio service frequencies.

17 k. The term "public utility" shall not include a regional natural gas
18 district organized and operated pursuant to Article 28 of Chapter
19 160A of the General Statutes.

20 l. The term "public utility" shall include a city or a joint agency under
21 Part 1 of Article 20 of Chapter 160A of the General Statutes that
22 provides service as defined in G.S. 62-3(23)a.6. and is subject to the
23 provisions of G.S. 160A-340.1.

24 (24) "Rate" means every compensation, charge, fare, tariff, schedule, toll, rental
25 and classification, or any of them, demanded, observed, charged or collected
26 by any public utility, for any service product or commodity offered by it to
27 the public, and any rules, regulations, practices or contracts affecting any
28 such compensation, charge, fare, tariff, schedule, toll, rental or classification.

29 (25) "Route" means the course or way which is traveled; the road or highway
30 over which motor vehicles operate.

31 (26) "Securities" means stock, stock certificates, bonds, notes, debentures, or
32 other evidences of ownership or of indebtedness, and any assumption or
33 guaranty thereof.

34 (27) "Service" means any service furnished by a public utility, including any
35 commodity furnished as a part of such service and any ancillary service or
36 facility used in connection with such service.

37 (27a) "Small power producer" means a person or corporation owning or operating
38 an electrical power production facility with a power production capacity
39 which, together with any other facilities located at the same site, does not
40 exceed 80 megawatts of electricity and which depends upon renewable
41 resources for its primary source of energy. For the purposes of this section,
42 renewable resources shall mean: hydroelectric power. A small power
43 producer shall not include persons primarily engaged in the generation or
44 sale of electricity from other than small power production facilities.

45 (28) The word "State" means the State of North Carolina; "state" means any state.

46 (29) "Town" means any unincorporated community or collection of people
47 having a geographical name by which it may be generally known and is so
48 generally designated.

49 (30) "Panel" means a panel of three commissioners, a division of the Utilities
50 Commission authorized for the purpose of carrying out certain functions of
51 the Commission. (1913, c. 127, s. 7; C.S., s. 1112(b); 1933, c. 134, ss. 3, 8;

1 c. 307, s. 1; 1937, c. 108, s. 2; 1941, cc. 59, 97; 1947, c. 1008, s. 3; 1949, c.
2 1132, s. 4; 1953, c. 1140, s. 1; 1957, c. 1152, s. 13; 1959, c. 639, ss. 12, 13;
3 1963, c. 1165, s. 1; 1967, c. 1094, ss. 1, 2; 1971, c. 553; c. 634, s. 1; cc. 894,
4 895; 1973, c. 372, s. 1; 1975, c. 243, s. 2; cc. 254, 415; 1979, c. 652, s. 1;
5 1979, 2nd Sess., c. 1219, s. 1; 1981 (Reg. Sess., 1982), c. 1186, s. 2; 1985, c.
6 676, s. 4; 1987, c. 445, s. 2; 1989, c. 110; 1993, c. 349, s. 1; 1993 (Reg.
7 Sess., 1994), c. 777, s. 1(b); 1995, c. 27, ss. 2, 3; c. 509, s. 34; c. 523, s. 1;
8 1997-426, s. 8; 1997-437, s. 1; 1998-128, ss. 1-3; 2004-199, s. 1; 2004-203,
9 s. 37(a); 2005-95, s. 2; 2011-84, s. 2(a).)

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11 **§ 62-4. Applicability of Chapter.**

12 This Chapter shall not terminate the preexisting Commission or appointments thereto, or
13 any certificates, permits, orders, rules or regulations issued by it or any other action taken by it,
14 unless and until revoked by it, nor affect in any manner the existing franchises, territories,
15 tariffs, rates, contracts, service regulations and other obligations and rights of public utilities,
16 unless and until altered or modified by or in accordance with the provisions of this Chapter.
17 (1963, c. 1165, s. 1.)

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19 **§§ 62-5 through 62-9. Reserved for future codification purposes.**