

1 Article 2.

2 Organization of Utilities Commission.

3 **§ 62-10. Number; appointment; terms; qualifications; chairman; vacancies;**
4 **compensation; other employment prohibited.**

5 (a) The North Carolina Utilities Commission shall consist of seven commissioners who
6 shall be appointed by the Governor subject to confirmation by the General Assembly by joint
7 resolution. The names of commissioners to be appointed by the Governor shall be submitted by
8 the Governor to the General Assembly for confirmation by the General Assembly on or before
9 May 1, of the year in which the terms for which the appointments are to be made are to expire.
10 Upon failure of the Governor to submit names as herein provided, the Lieutenant Governor and
11 Speaker of the House jointly shall submit the names of a like number of commissioners to the
12 General Assembly on or before May 15 of the same year for confirmation by the General
13 Assembly. Regardless of the way in which names of commissioners are submitted,
14 confirmation of commissioners must be accomplished prior to adjournment of the then current
15 session of the General Assembly. This subsection shall be subject to the provisions of
16 subsection (c) of this section.

17 (b) The terms of the commissioners now serving shall expire at the conclusion of the
18 term for which they were appointed which shall remain as before with two regular eight-year
19 terms expiring on July 1 of each fourth year after July 1, 1965, and the fifth term expiring on
20 July 1 of each eighth year after July 1, 1963. The terms of office of utilities commissioners
21 thereafter shall be six years commencing on July 1 of the year in which the predecessor terms
22 expired, and ending on July 1 of the sixth year thereafter.

23 (c) In order to increase the number of commissioners to seven, the names of two
24 additional commissioners shall be submitted to the General Assembly on or before May 27,
25 1975, for confirmation by the General Assembly as provided in G.S. 62-10(a). The
26 commissioners so appointed and confirmed shall serve new terms commencing on July 1, 1975,
27 one of which shall be for a period of two years (with the immediate successor serving for a
28 period of six years), and one of which shall be for a period of two years.

29 Thereafter, the terms of office of the additional commissioners shall be for six years as
30 provided in G.S. 62-10(b).

31 (d) A commissioner in office shall continue to serve until his successor is duly
32 confirmed and qualified but such holdover shall not affect the expiration date of such
33 succeeding term.

34 (e) On July 1, 1965, and every four years thereafter, one of the commissioners shall be
35 designated by the Governor to serve as chairman of the Commission for the succeeding four
36 years and until his successor is duly confirmed and qualifies. Upon death or resignation of the
37 commissioner appointed as chairman, the Governor shall designate the chairman from the
38 remaining commissioners and appoint a successor as hereinafter provided to fill the vacancy on
39 the Commission.

40 (f) In case of death, incapacity, resignation or vacancy for any other reason in the office
41 of any commissioner prior to the expiration of his term of office, the name of his successor
42 shall be submitted by the Governor within four weeks after the vacancy arises to the General
43 Assembly for confirmation by the General Assembly. Upon failure of the Governor to submit
44 the name of the successor, the Lieutenant Governor and Speaker of the House jointly shall
45 submit the name of a successor to the General Assembly within six weeks after the vacancy
46 arises. Regardless of the way in which names of commissioners are submitted, confirmation of
47 commissioners must be accomplished prior to the adjournment of the then current session of
48 the General Assembly.

49 (g) If a vacancy arises or exists pursuant to either subsection (a) or (c) or (f) of this
50 section when the General Assembly is not in session, and the appointment is deemed urgent by

1 the Governor, the commissioner may be appointed and serve on an interim basis pending
2 confirmation by the General Assembly.

3 (h) The salary of each commissioner and that of the commissioner designated as
4 chairman shall be set by the General Assembly in the Current Operations Appropriations Act.
5 In lieu of merit and other increment raises paid to regular State employees, each commissioner,
6 including the commissioner designated as chairman, shall receive as longevity pay an amount
7 equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current
8 Operations Appropriations Act payable monthly after five years of service, and nine and
9 six-tenths percent (9.6%) after 10 years of service. "Service" means service as a member of the
10 Utilities Commission.

11 (h1) In addition to compensation for their services, each member of the Commission who
12 lives at least 50 miles from the City of Raleigh shall be paid a weekly travel allowance for each
13 week the member travels to the City of Raleigh from the member's home for business of the
14 Commission. The allowance shall be calculated for each member by multiplying the actual
15 round-trip mileage from that member's home to the City of Raleigh by the rate-per-mile which
16 is the business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51,
17 December 27, 1993.

18 (i) The standards of judicial conduct provided for judges in Article 30 of Chapter 7A of
19 the General Statutes shall apply to members of the Commission. Members of the Commission
20 shall be liable to impeachment for the causes and in the manner provided for judges of the
21 General Court of Justice in Chapter 123 of the General Statutes. Members of the Commission
22 shall not engage in any other employment, business, profession, or vocation while in office.

23 (j) Except as provided in subsection (h1) of this section, members of the Commission
24 shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers
25 and employees by G.S. 138-6(a). (1941, c. 97, s. 2; 1949, c. 1009, s. 1; 1959, c. 1319; 1963, c.
26 1165, s. 1; 1967, c. 1238; 1975, c. 243, s. 3; c. 867, ss. 1, 2; 1977, c. 468, s. 1; c. 913, s. 2; 1983
27 (Reg. Sess., 1984), c. 1116, s. 91; 1989, c. 781, s. 41.2; 1993 (Reg. Sess., 1994), c. 769, s.
28 7.4(b); 1996, 2nd Ex. Sess., c. 18, s. 28.2(b); 1997-443, s. 33.5; 1999-237, s. 28.21(a), (b);
29 2011-145, s. 14.8A(a).)

30 31 **§ 62-11. Oath of office.**

32 Each utilities commissioner before entering upon the duties of his office shall file with the
33 Secretary of State his oath of office to support the Constitution and laws of the United States
34 and the Constitution and laws of the State of North Carolina, and to well and truly perform the
35 duties of his said office as utilities commissioner, and that he is not the agent or attorney of any
36 public utility, or an employee thereof, and that he has no interest in any public utility. (1933, c.
37 134, s. 5; 1935, c. 280; 1939, c. 404; 1941, c. 97; 1963, c. 1165, s. 1.)

38 39 **§ 62-12. Organization of Commission; adoption of rules and regulations therefor.**

40 To facilitate the work of the Commission and for administrative purposes, the chairman of
41 the Commission, with the consent and approval of the Commission, may organize the work of
42 the Commission in several hearing divisions and operating departments and may designate a
43 member of the Commission as the head of any division or divisions and assign to members of
44 the Commission various duties in connection therewith. Subject to the provisions of the State
45 Personnel Act (Article 2 of Chapter 143 of the General Statutes), the Commission shall prepare
46 and adopt rules and regulations governing the personnel, departments or divisions and all
47 internal affairs and business of the Commission. (1941, c. 97, s. 3; 1949, c. 1009, s. 2; 1957, c.
48 1062, s. 1; 1963, c. 1165, s. 1.)

49 50 **§ 62-13. Chairman to direct Commission.**

1 (a) The chairman shall be the chief executive and administrative officer of the
2 Commission.

3 (b) The chairman shall determine whether matters pending before the Commission shall
4 be considered or heard initially by the full Commission, a panel of three commissioners, a
5 hearing commissioner, or a hearing examiner. Subject to the rules of the Commission, the
6 chairman shall assign members of the Commission to proceedings and shall assign members to
7 preside at proceedings before the full Commission or a panel of three commissioners.

8 (c) The chairman, the presiding commissioner, hearing commissioner, or hearing
9 examiner shall hear and determine procedural motions or petitions not determinative of the
10 merits of the proceedings and made prior to hearing; and at hearing shall make all rulings on
11 motions and objections.

12 (d) The chairman acting alone, or any three commissioners, may initiate investigations,
13 complaints, or any other proceedings within the jurisdiction of the Commission. (1941, c. 97, s.
14 4; 1957, c. 1062, s. 2; 1963, c. 1165, s. 1; 1975, c. 243, ss. 9, 10; 1977, c. 468, s. 2; c. 913, s. 2.)
15

16 **§ 62-14. Commission staff; structure and function.**

17 (a) The Commission is authorized and empowered to employ hearing examiners; court
18 reporters; a chief clerk and deputy clerk; a commission attorney and assistant commission
19 attorney; transportation and pipeline safety inspectors; and such other professional,
20 administrative, technical, and clerical personnel as the Commission may determine to be
21 necessary in the proper discharge of the Commission's duty and responsibility as provided by
22 law. The chairman shall organize and direct the work of the Commission staff.

23 (b) The salaries and compensation of all such personnel shall be fixed in the manner
24 provided by law for fixing and regulating salaries and compensation by other State agencies.

25 (c) The chairman, within allowed budgetary limits and as allowed by law, shall
26 authorize and approve travel, subsistence and related expenses of such personnel, incurred
27 while traveling on official business. (1963, c. 1165, s. 1; 1977, c. 468, s. 3.)
28

29 **§ 62-15. Office of executive director; public staff, structure and function.**

30 (a) There is established in the Commission the office of executive director, whose
31 salary and longevity pay shall be the same as that fixed for members of the Commission.
32 "Service" for purposes of longevity pay means service as executive director of the public staff.
33 The executive director shall be appointed by the Governor subject to confirmation by the
34 General Assembly by joint resolution. The name of the executive director appointed by the
35 Governor shall be submitted to the General Assembly on or before May 1 of the year in which
36 the term of his office begins. The term of office for the executive director shall be six years,
37 and the initial term shall begin July 1, 1977. The executive director may be removed from
38 office by the Governor in the event of his incapacity to serve; and the executive director shall
39 be removed from office by the Governor upon the affirmative recommendation of a majority of
40 the Commission, after consultation with the Joint Legislative Commission on Governmental
41 Operations of the General Assembly. In case of a vacancy in the office of executive director for
42 any reason prior to the expiration of his term of office, the name of his successor shall be
43 submitted by the Governor to the General Assembly, not later than four weeks after the
44 vacancy arises. If a vacancy arises in the office when the General Assembly is not in session,
45 the executive director shall be appointed by the Governor to serve on an interim basis pending
46 confirmation by the General Assembly.

47 (b) There is established in the Commission a public staff. The public staff shall consist
48 of the executive director and such other professional, administrative, technical, and clerical
49 personnel as may be necessary in order for the public staff to represent the using and
50 consuming public, as hereinafter provided. All such personnel shall be appointed, supervised,

1 and directed by the executive director. The public staff shall not be subject to the supervision,
2 direction, or control of the Commission, the chairman, or members of the Commission.

3 (c) Except for the executive director, the salaries and compensation of all such
4 personnel shall be fixed in the manner provided by law for fixing and regulating salaries and
5 compensation by other State agencies.

6 (d) It shall be the duty and responsibility of the public staff to:

- 7 (1) Review, investigate, and make appropriate recommendations to the
8 Commission with respect to the reasonableness of rates charged or proposed
9 to be charged by any public utility and with respect to the consistency of
10 such rates with the public policy of assuring an energy supply adequate to
11 protect the public health and safety and to promote the general welfare;
- 12 (2) Review, investigate, and make appropriate recommendations to the
13 Commission with respect to the service furnished, or proposed to be
14 furnished by any public utility;
- 15 (3) Intervene on behalf of the using and consuming public, in all Commission
16 proceedings affecting the rates or service of any public utility;
- 17 (4) When deemed necessary by the executive director in the interest of the using
18 and consuming public, petition the Commission to initiate proceedings to
19 review, investigate, and take appropriate action with respect to the rates or
20 service of public utilities;
- 21 (5) Intervene on behalf of the using and consuming public in all certificate
22 applications filed pursuant to the provisions of G.S. 62-110.1, and provide
23 assistance to the Commission in making the analysis and plans required
24 pursuant to the provisions of G.S. 62-110.1 and 62-155;
- 25 (6) Intervene on behalf of the using and consuming public in all proceedings
26 wherein any public utility proposes to reduce or abandon service to the
27 public;
- 28 (7) Investigate complaints affecting the using and consuming public generally
29 which are directed to the Commission, members of the Commission, or the
30 public staff and where appropriate make recommendations to the
31 Commission with respect to such complaints;
- 32 (8) Make studies and recommendations to the Commission with respect to
33 standards, regulations, practices, or service of any public utility pursuant to
34 the provisions of G.S. 62-43; provided, however, that the public staff shall
35 have no duty, responsibility, or authority with respect to the enforcement of
36 natural gas pipeline safety laws, rules, or regulations;
- 37 (9) When deemed necessary by the executive director, in the interest of the
38 using and consuming public, intervene in Commission proceedings with
39 respect to transfers of franchises, mergers, consolidations, and combinations
40 of public utilities pursuant to the provisions of G.S. 62-111;
- 41 (10) Investigate and make appropriate recommendations to the Commission with
42 respect to applications for certificates by radio common carriers, pursuant to
43 the provisions of Article 6A of this Chapter;
- 44 (11) Review, investigate, and make appropriate recommendations to the
45 Commission with respect to contracts of public utilities with affiliates or
46 subsidiaries, pursuant to the provisions of G.S. 62-153;
- 47 (12) When deemed necessary by the executive director, in the interest of the
48 using and consuming public, advise the Commission with respect to
49 securities, regulations, and transactions, pursuant to the provisions of Article
50 8 of this Chapter.

1 (e) The public staff shall have no duty, responsibility, or authority with respect to the
2 laws, rules or regulations pertaining to the physical facilities or equipment of common, contract
3 and exempt carriers, the registration of vehicles or of insurance coverage of vehicles of
4 common, contract and exempt carriers; the licensing, training, or qualifications of drivers or
5 other persons employed by common, contract and exempt carriers, or the operation of motor
6 vehicle equipment by common, contract and exempt carriers in the State.

7 (f) The executive director representing the public staff shall have the same rights of
8 appeal from Commission orders or decisions as other parties to Commission proceedings.

9 (g) Upon request, the executive director shall employ the resources of the public staff to
10 furnish to the Commission, its members, or the Attorney General, such information and reports
11 or conduct such investigations and provide such other assistance as may reasonably be required
12 in order to supervise and control the public utilities of the State as may be necessary to carry
13 out the laws providing for their regulation.

14 (h) The executive director is authorized to employ, subject to approval by the State
15 Budget Officer, expert witnesses and such other professional expertise as the executive director
16 may deem necessary from time to time to assist the public staff in its participation in
17 Commission proceedings, and the compensation and expenses therefor shall be paid by the
18 utility or utilities participating in said proceedings. Such compensation and expenses shall be
19 treated by the Commission, for rate-making purposes, in a manner generally consistent with its
20 treatment of similar expenditures incurred by utilities in the presentation of their cases before
21 the Commission. An accounting of such compensation and expenses shall be reported annually
22 to the Joint Legislative Commission on Governmental Operations and to the Speaker of the
23 House of Representatives and the President Pro Tempore of the Senate.

24 (i) The executive director, within established budgetary limits, and as allowed by law,
25 shall authorize and approve travel, subsistence, and related necessary expenses of the executive
26 director or members of the public staff, incurred while traveling on official business. (1949, c.
27 1009, s. 3; 1963, c. 1165, s. 1; 1977, c. 468, s. 4; 1981, c. 475; 1983, c. 717, s. 12.1; 1985, c.
28 499, s. 4; 1989, c. 781, s. 41.3; 1989 (Reg. Sess., 1990), c. 1024, s. 13; 1999-237, s. 28.21A;
29 2011-291, ss. 2.8, 2.9.)
30

31 **§ 62-16. Repealed by Session Laws 1977, c. 468, s. 5.**
32

33 **§ 62-17. Annual reports; monthly or quarterly release of certain information; publication**
34 **of procedural orders and decisions.**

35 (a) It shall be the duty of the Commission to make and publish annual reports to the
36 Governor of Commission activities, including copies of its general orders and regulations,
37 comparative statistical data on the operation of the various public utilities in the State,
38 comparisons of rates in North Carolina with rates elsewhere, a detailed report of its
39 investigative division, a review of significant developments in the fields of utility law,
40 economics and planning, a report of pending matters before the Commission, and a digest of
41 the principal decisions of the Commission and the North Carolina courts affecting public
42 utilities. A monthly or quarterly release of such information shall be made if the Commission
43 deems it advisable or if the Governor shall so request.

44 (a1) The public staff of the Commission shall make and publish annual reports to the
45 General Assembly on its activities in the interest of the using and consuming public.

46 (b) The Commission shall publish in a separate volume at least once each year its final
47 decisions made on the merits in formal proceedings before the Commission, and may include
48 significant procedural orders and decisions. (1899, c. 164, s. 27; Rev., s. 1117; 1911, c. 211, s.
49 9; 1913, c. 10, s. 1; C.S., s. 1065; 1933, c. 134, s. 8; 1941, c. 97; 1955, c. 981; 1957, c. 1152, s.
50 1; 1963, c. 1165, s. 1; 1977, c. 468, s. 6.)
51

1 **§ 62-18. Records of receipts and disbursements; payment into treasury.**

2 (a) The Commission shall keep a record showing in detail all receipts and
3 disbursements.

4 (b) Except as provided in G.S. 62-110.3, all license fees and seal taxes, all money
5 received from fines and penalties, and all other fees paid into the office of the Utilities
6 Commission shall be turned in to the State treasury. (1899, c. 164, ss. 26, 33, 34; Rev., ss.
7 1114, 1115; C.S., ss. 1063, 1064; 1933, c. 134, s. 8; 1941, c. 97; 1963, c. 1165, s. 1; 1987, c.
8 490, s. 1.)
9

10 **§ 62-19. Public record of proceedings; chief clerk; seal.**

11 (a) The Commission shall keep in the office of the chief clerk at all times a record of its
12 official acts, rulings, orders, decisions, and transactions, and a current calendar of its scheduled
13 activities and hearings, which shall be public records of the State of North Carolina.

14 (b) Upon receipt by the Commission, the chief clerk shall furnish to the executive
15 director copies of all rates, tariffs, contracts, applications, petitions, pleadings, complaints, and
16 all other documents filed with the Commission and shall furnish to the executive director
17 copies of all orders and decisions entered by the Commission.

18 (c) The Commission shall have and adopt a seal with the words "North Carolina
19 Utilities Commission" and such other design as it may prescribe engraved thereon by which it
20 shall authenticate its proceedings and of which the courts shall take judicial notice. Where an
21 exemplified copy of Commission records and proceedings is required for full faith and credit
22 outside of the State, such records and proceedings shall be attested by the chief clerk, or deputy
23 clerk, and the seal of the Commission annexed, and there shall be affixed a certificate of a
24 member of the Commission that the said attestation is in proper form. Such exemplification
25 shall constitute an authenticated or exemplified copy of an official record of a court of record of
26 the State of North Carolina. (1933, c. 134, ss. 13, 15; 1941, c. 97; 1963, c. 1165, s. 1; 1977, c.
27 468, s. 7.)
28

29 **§ 62-20. Participation by Attorney General in Commission proceedings.**

30 The Attorney General may intervene, when he deems it to be advisable in the public
31 interest, in proceedings before the Commission on behalf of the using and consuming public,
32 including utility users generally and agencies of the State. The Attorney General may institute
33 and originate proceedings before the Commission in the name of the State, its agencies or
34 citizens, in matters within the jurisdiction of the Commission. The Attorney General may
35 appear before such State and federal courts and agencies as he deems it advisable in matters
36 affecting public utility services. In the performance of his responsibilities under this section, the
37 Attorney General shall have the right to employ expert witnesses, and the compensation and
38 expenses therefor shall be paid from the Contingency and Emergency Fund. The Commission
39 shall furnish the Attorney General with copies of all applications, petitions, pleadings, order
40 and decisions filed with or entered by the Commission. The Attorney General shall have access
41 to all books, papers, studies, reports and other documents filed with the Commission. (1949, c.
42 989, s. 1; c. 1029, s. 3; 1959, c. 400; 1963, c. 1165, s. 1; 1977, c. 468, s. 8.)
43

44 **§ 62-21. Repealed by Session Laws 1977, c. 468, s. 9.**

45
46 **§ 62-22. Utilities Commission and Department of Revenue to coordinate facilities for rate
47 making and taxation purposes.**

48 The Commission, at the request of the Department of Revenue, shall make available to the
49 Department of Revenue the services of such of the personnel of the Commission as may be
50 desired and required for the purpose of furnishing to the Department of Revenue advice and
51 information as to the value of properties of public utilities, the valuations of which for ad

1 valorem taxation are required by law to be determined by the Department of Revenue. It shall
2 be the duty of the Commission and the Department of Revenue, with regard to the assessment
3 and valuation of properties of public utilities doing business in North Carolina, to coordinate
4 the activities of said agencies so that each of them shall receive the benefit of the exchange of
5 information gathered by them with respect to the valuations of public utilities property for rate
6 making and taxation purposes, and the facilities of each of said agencies shall be made fully
7 available to both of them. (1949, c. 1029, s. 3; 1963, c. 1165, s. 1; 1973, c. 476, s. 193.)

8
9 **§ 62-23. Commission as an administrative board or agency.**

10 The Commission is hereby declared to be an administrative board or agency of the General
11 Assembly created for the principal purpose of carrying out the administration and enforcement
12 of this Chapter, and for the promulgation of rules and regulations and fixing utility rates
13 pursuant to such administration; and in carrying out such purpose, the Commission shall
14 assume the initiative in performing its duties and responsibilities in securing to the people of
15 the State an efficient and economic system of public utilities in the same manner as
16 commissions and administrative boards generally. In proceedings in which the Commission is
17 exercising functions judicial in nature, it shall act in a judicial capacity as provided in G.S.
18 62-60. The Commission shall separate its administrative or executive functions, its rule making
19 functions, and its functions judicial in nature to such extent as it deems practical and advisable
20 in the public interest. (1963, c. 1165, s. 1.)

21
22 **§§ 62-24 through 62-29. Reserved for future codification purposes.**