

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

**SESSION LAW 2014-59
HOUSE BILL 1052**

AN ACT TO ADJUST THE UTILITY REGULATORY FEE TO REFLECT THE CHANGING REGULATORY CLIMATE FOR THE TELECOMMUNICATIONS INDUSTRY, AS RECOMMENDED BY THE LRC COMMITTEE ON THE ASSESSMENT OF REGULATED AND NON-REGULATED INDUSTRY UTILITY FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-302 reads as rewritten:

"§ 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.

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(1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.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) ~~The~~ For noncompetitive jurisdictional revenues as defined in sub-subdivision (4)a. of this subsection, the public utility regulatory fee for each fiscal year shall be is the greater of (i) a percentage rate, established by the General Assembly, of each public utility's North Carolina noncompetitive jurisdictional revenues for each quarter or (ii) six dollars and twenty-five cents (\$6.25) each quarter. For subsection (h) competitive jurisdictional revenues as defined in sub-subdivision (4)b. of this subsection, and subsection (m) competitive jurisdictional revenues as defined in sub-subdivision (4)c. of this subsection, the public utility regulatory fee for each fiscal year is a percentage rate established by the General Assembly of each public utility's competitive jurisdictional revenues for each quarter.

When the Commission prepares its budget request for the upcoming fiscal year, the Commission shall propose a percentage rate of the public utility regulatory fee. For fiscal years beginning in an odd-numbered year, that proposed rate shall be included in the budget message the Governor submits to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years beginning in an even-numbered year, that proposed rate shall be included in a special budget message the Governor shall submit to the General Assembly. The General Assembly shall set the percentage rate of the public utility regulatory fee by law.

The percentage rate may not exceed the amount necessary to generate funds sufficient to defray the estimated cost of the operations of the



Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of operating the Commission and the Public Staff for the upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Commission or the Public Staff or a possible unanticipated increase or decrease in North Carolina jurisdictional revenues.

- (3) If the Commission, the Public Staff, or both experience a revenue shortfall, the Commission shall implement a temporary public utility regulatory fee surcharge to avert the deficiency that would otherwise occur. In no event may the total percentage rate of the public utility regulatory fee plus any surcharge established by the Commission exceed twenty-five hundredths percent (0.25%).
- (4) As used in this section, the term "~~North Carolina jurisdictional revenues~~" means:
 - a. "Noncompetitive jurisdictional revenues" means all ~~the~~ 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 ~~the~~ revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under no longer otherwise regulated by the operation of ~~G.S. 62-133.5(h) or G.S. 62-133.5(h).~~ G.S. 62-133.5(m) for a local exchange company or competing local provider that has elected to be regulated under those subsections.
 - 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).

...

(e) Recovery of fee increase. – If a utility's regulatory fee obligation is increased, the Commission shall either adjust the utility's rates to allow for the recovery of the increased fee obligation, or approve the utility's request for an accounting order allowing deferral of the increase in the fee obligation."

SECTION 2.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each quarter that begins on or after July 1, 2015, is six hundredths of one percent (0.06%).

SECTION 2.(b) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each quarter that begins on or after July 1, 2016, is four hundredths of one percent (0.04%).

SECTION 3.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each quarter that begins on or after July 1, 2015, is five hundredths of one percent (0.05%).

SECTION 3.(b) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each quarter that begins on or after July 1, 2016, is two hundredths of one percent (0.02%).

SECTION 4. For the 2015-2016 and 2016-2017 fiscal years, the percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina noncompetitive jurisdictional revenues as defined by G.S. 62-302(b)(4)a. shall be adjusted to reflect the decrease in the total regulatory fee collected as a result of Sections 2 and 3 of this act and shall be set to ensure the total regulatory fee collected for each fiscal year is at least an amount sufficient to defray the cost of the operations

of the Commission and the Public Staff for the upcoming fiscal year, including a reasonable margin for a reserve fund.

SECTION 5. This act becomes effective July 1, 2015.

In the General Assembly read three times and ratified this the 1st day of July, 2014.

s/ Daniel J. Forest
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 4:16 p.m. this 7th day of July, 2014