

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. ER-100, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Rulemaking Proceeding to Implement            )       ORDER AMENDING  
Session Law 2011-252                            )       FINAL RULES

BY THE COMMISSION: On April 19, 2012, the Commission issued an Order Adopting Final Rules to implement Session Law 2011-252 (Senate Bill 533), an act that allows certain lessors to resell electricity to their tenants.

Throughout Senate Bill 533, the General Assembly referred to the new codification of the Commission's authority to grant a certificate to resell electric service as 62-110(g1). The Commission's final rules and the application requesting authority to resell electric service used 62-110(g1) as provided by Senate Bill 533. When Senate Bill 533 was codified within the North Carolina General Statutes, the codifier changed 62-110(g1) to 62-110(h). It has further come to the Commission's attention that a form is needed to allow for an apartment complex owner who has been granted a certificate of authority to resell electric service to request a transfer of its certificate of authority to a subsequent purchaser.

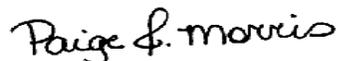
The Commission finds good cause to amend the final rules, including the application, implementing Senate Bill 533 to correct the statutory references. For ease of reference to these rules and application, the attached Appendix A includes all of the rules adopted in the Commission's April 19, 2012 Order. The Commission further finds good cause to adopt Form ER-2 allowing for the transfer of authority to resell electric service which has been added to Appendix A.

IT IS, THEREFORE, ORDERED that the Commission Rules and Regulations shall be, and are hereby, amended as set out in Appendix A, attached hereto, effective as of the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 31<sup>st</sup> day of March, 2014.

NORTH CAROLINA UTILITIES COMMISSION



Paige J. Morris, Deputy Clerk

## Chapter 22 Provision of Electric Service by Landlords

- Rule R22-1. Application.
- Rule R22-2. Definitions.
- Rule R22-3. Utility status; certificate.
- Rule R22-4. Application for authority.
- Rule R22-5. Bills of the provider.
- Rule R22-6. Records, reports and fees.
- Rule R22-7. Disconnection; billing procedure.

### **Rule R22-1. Application.**

Pursuant to G.S. 62-110(h), this Chapter governs the resale of electricity by a lessor of a residential building or complex that has individually metered units for electric service in the lessor's name, where the lessor (a) charges the actual costs of providing electric service to each tenant, and (b) has a separate lease for each bedroom in the unit.

### **Rule R22-2. Definitions.**

(a) *Provider.* A lessor who purchases electric utility service from a supplier and charges for the costs of providing the service to tenants. A provider must be the owner of the premises served, and must have a current fully executed lease for each tenant.

(b) *Supplier.* A public utility, or an agency or organization exempted from regulation, from which a provider purchases electric service.

(c) *Supplier's Unit Electric Service Bill.* The actual amount charged by the supplier for the unit as a whole less any amount charged by the supplier that is not recoverable from the tenants such as connection or disconnection charges, provider late fees or amounts attributed to excess usage as provided in Rule R22-7(f).

(d) *Tenant.* A lessee who purchases electric service from a provider.

**Rule R22-3. Utility status; certificate.**

(a) Every provider is a public utility as defined by G.S. 62-3(23)a.1. and shall comply with, and shall be subject to all applicable provisions of the Public Utilities Act and all applicable rules and regulations of the Commission, except as hereinafter provided.

(b) A provider who charges for electric service under this Rule:

- (1) is solely responsible for the prompt payment of all bills rendered by the supplier and is the retail customer of the supplier subject to all rules, regulations, tariffs, riders and service regulations associated with the provision of residential electric service to retail customers of the supplier;
- (2) is not considered a wholesale customer of the supplier; and
- (3) is not subject to the requirements of G.S. 62-133.8, 62-133.9, or Rules R8-67 through R8-69.

(c) No provider shall begin charging for the costs of providing electric service prior to applying for and receiving a certificate of authority from the Commission.

**Rule R22-4. Application for authority.**

(a) Every application for authority to charge for the costs of providing electric service shall be in such form and detail as the Commission may prescribe and shall include:

- (1) a description of the lessor, who is the applicant, including legal name and type of business entity, and a description of the property to be served, including business or marketing name if any, street address, and number of units. A separate application is required for each property or apartment complex;
- (2) a description of the proposed billing method and billing statements;
- (3) the proposed method of allocating the supplier's charges to the tenants;
- (4) the administrative fee per tenant and late payment charge, if any, proposed to be charged by the applicant, and the number of days after the bill is mailed or otherwise delivered when the late payment fee would begin to be applied;
- (5) the applicant's plans for retention and availability of records;
- (6) the name of and contact information for the applicant and its agents, including mailing address, email address, and telephone number;
- (7) the name of and contact information for the supplier of electric service to the applicant's rental property;
- (8) the current schedule of charges from the supplier;
- (9) a copy of the lease forms to be used by the applicant for tenants who are billed for electric service pursuant to this Chapter;
- (10) a statement indicating the particular provisions of the lease forms pertaining to billing for electric service;
- (11) the verified signature of the applicant or applicant's authorized representative;
- (12) the required filing fee;
- (13) one (1) original and seven (7) collated copies of the application; and
- (14) any additional information that the Commission may require.

(b) The Commission shall approve or disapprove an application within 60 days of the filing of a completed application with the Commission. If the Commission has not issued an Order disapproving a completed application within 60 days, the application shall be deemed approved; provided, however, no

person or entity may charge for electric utility service in a manner inconsistent with Chapter 62 of the North Carolina General Statutes.

(c) An approved certificate of authority from the Commission to charge for the costs of providing electric service under these rules shall be delivered to the supplier from which the provider purchases electric service and include information in R22-4(a)(1) and (6).

**Rule R22-5. Bills of the provider.**

(a) Bills for electric service sent by the provider to the tenant shall contain all of the following information:

- (1) the Supplier's Unit Electric Service Bill for the unit and the amount of charges allocated to the tenant during the billing period;
- (2) the name of the supplier;
- (3) the beginning and ending dates for the usage period and, if provided by the supplier, the date the meter for the unit was read for that usage period;
- (4) the past-due date, which shall not be less than 25 days after the bill is mailed or otherwise delivered to the tenant;
- (5) the name of the provider and a local or toll-free telephone number and address of the provider that the tenants can use to obtain more information about the bill;
- (6) the amount of administrative fee and the late payment charge approved by the Commission and included in the bill, if any; and
- (7) a statement of the tenant's right to address questions about the bill to the provider and the tenant's right to file a complaint with, or otherwise seek recourse from, the Commission if the tenant cannot resolve an electric service billing dispute with the provider.

(b) The provider or the provider's billing agent shall equally divide the actual amount of the Supplier's Unit Electric Service Bill for a unit among all the tenants in the unit and shall send one bill to each tenant.

(c) The amount charged shall be prorated when a tenant has not leased the unit for the same number of days as the other tenants in the unit during the billing period.

(d) Each bill may include an administrative fee no greater than the amount authorized in Rule R18-6 for water service and, when applicable, a late payment charge no greater than the amount authorized in Rule R12-9(d).

(e) A late payment charge may be applied to the balance in arrears after the past-due date.

(f) The provider shall not charge the cost of electricity from any other unit or common area in a tenant's bill. "Common area" means parts of the rental property outside the individually metered unit where the tenant dwells.

(g) No provider shall charge or collect any greater compensation for the costs of providing electric service than the rates approved by the Commission.

(h) The provider may, at the provider's option, pay any portion of any bill sent to a tenant; provided, however, that (i) the provider must still send each tenant bills in accordance with the other provisions in Rule R22-5, and (ii) the provider must comply with G.S. 62-140 regarding non-discrimination in billing for utility service.

**Rule R22-6. Records, reports and fees.**

(a) The provider shall maintain for a minimum of 36 months records that demonstrate how each tenant's allocated costs were calculated for electric service, as well as any other electric utility service-related fees charged to each tenant.

(b) All records required to be maintained by the provider pursuant to section (a), shall be kept at an office at the apartment complex or some other designated local address and shall be made available during regular business hours for inspection by a tenant, the Commission, or the Public Staff. The tenant

may obtain a copy of those records at a reasonable cost, which shall not exceed twenty-five cents (25¢) per page.

(c) Providers shall not be required to file an annual report to the Commission as required by Rule R1-32.

(d) Providers shall pay a regulatory fee and file a regulatory fee report as required by Rule R15-1.

(e) Special reports shall also be made concerning any particular matter upon request by the Commission.

**Rule R22-7. Disconnection; billing procedure.**

(a) Any payment to the provider shall be applied first to the rent owed and then to charges for utility service, unless otherwise designated by the tenant.

(b) No charge for connection or disconnection or late fee or deposit paid by the provider to the supplier shall be allowed, and no provider may terminate a lease for nonpayment of electric service.

(c) No provider may disconnect or request the supplier to disconnect electric service for the tenant's nonpayment of a bill.

(d) Bills shall be rendered at least monthly.

(e) The date after which a bill for electric utility service is due (the past due date) shall be disclosed on the bill and shall not be less than twenty-five (25) days after the bill is mailed or otherwise delivered to the tenant.

(f) A provider shall not bill for or attempt to collect for excess usage resulting from a meter malfunction or other electrical condition in appliances such as water heaters, HVAC systems, or ranges furnished by the provider to the tenant, when the malfunction is not known to the tenant or when the malfunction has been reported to the provider.

(g) Every provider shall provide to each tenant at the time the lease agreement is signed, and shall maintain in its business office, in public view, near the place where payments are received, the following:

- (1) A copy of the rates, rules and regulations of the provider applicable to the premises served from that office, with respect to electric utility service;
- (2) A copy of these rules and regulations (Chapter 22);
- (3) A statement advising tenants that they should first contact the provider's office with any questions they may have regarding bills or complaints about service, and that in cases of dispute, they may contact the Commission either by calling the Public Staff - North Carolina Utilities Commission, Consumer Services Division, at (866) 380-9816 (in-state calls only) or (919) 733-9277 or by appearing in person or writing the Public Staff - North Carolina Utilities Commission, Consumer Services Division, 4326 Mail Service Center, Raleigh, North Carolina 27699-4326.

(h) Each provider shall adopt a means of informing its tenants initially and on an annual basis as to the provider's method of allocating bills to the individual tenants and its administrative fee and late fee, if any. A copy of the supplier's current schedule of charges shall also be included in these disclosures.

(i) Every provider shall promptly notify the Commission in writing of any change in the information required in Rule R22-4(a), except for changes in the rates and charges of the supplier Rule R22-4(a)(8)).

(j) If a provider anticipates that it will not pay a supplier's bill on time, or if the provider receives notice from the supplier of pending disconnection, whichever comes first, the provider must within 24 hours provide written notice to the Commission and all of the provider's affected tenants of the anticipated nonpayment or disconnection notice. A provider may not abandon or cease providing electric service to its tenants without advance permission from the Commission.

DOCKET NO. ER-\_\_\_\_\_,SUB\_\_\_\_\_  
FILING FEE RECEIVED \_\_\_\_\_

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

APPLICATION FOR CERTIFICATE OF AUTHORITY TO RESELL ELECTRIC SERVICE IN ACCORDANCE WITH  
G.S. 62-110(h) and NORTH CAROLINA UTILITIES COMMISSION CHAPTER 22

**INSTRUCTIONS**

If additional space is needed, supplementary sheets may be attached. If any section does not apply, write "not applicable."

Utility laws, the Commission's Rules, and other information may be accessed at <http://www.ncuc.net/index.htm>

**APPLICANT**

1. Name of owner \_\_\_\_\_  
(Individual name if the owner is a sole proprietor or business name if not a sole proprietor.)
2. Business mailing address of owner \_\_\_\_\_  
City and state \_\_\_\_\_ Zip code \_\_\_\_\_
3. Business telephone number \_\_\_\_\_ Business fax number \_\_\_\_\_
4. Business email address \_\_\_\_\_

**PROPOSED UTILITY SERVICE AREA**

5. Name of Apartment Complex \_\_\_\_\_
6. Street Address of Apartment Complex \_\_\_\_\_
7. County \_\_\_\_\_
8. Name, address and telephone number of the supplier of purchased power \_\_\_\_\_  
\_\_\_\_\_
9. Number of tenants that can be served at this apartment complex: \_\_\_\_\_

**RESALE PROVISIONS**

10. Describe the method Applicant proposes to use to allocate the supplier's individual electric bill for a unit among all the tenants in the unit (NCUC Rule R22-5): \_\_\_\_\_  
\_\_\_\_\_
11. Monthly administrative fee per bill: \_\_\_\_\_  
(Pursuant to NCUC Rule R22-5(d), no more than \$3.75 per month - the maximum amount authorized for water resellers by Commission Rule R18-6, may be added to the cost of electric service as an administrative fee. The amount of administrative fee, up to the maximum amount, should be justified by Applicant's actual costs.)
12. Bills will be past due \_\_\_ days after they are mailed or otherwise delivered to tenants. (NCUC Rule R22-7(e) specifies that bills shall not be past due less than twenty-five (25) days after mailing or other delivery to tenants).
13. Late fee amount: \_\_\_\_\_  
(Pursuant to NCUC Rule R22-5(d) and (e), no more than 1% per month on the balance in arrears.)

Number of days after mailing or other delivery of bills at which the late fee begins to apply: \_\_\_\_\_  
(See NCUC Rule R22-5(e) and (7)(e).)

14. Statement of the Applicant's plans for retention and availability of records (see NCUC Rule R22-6(a) and (b)): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PERSONS TO CONTACT**

	<b><u>NAME</u></b>	<b><u>ADDRESS</u></b>	<b><u>TELEPHONE</u></b>
15. Management	_____	_____	_____
		_____	
		Email _____	
16. Complaints or Billing	_____	_____	_____
		_____	
		Email _____	
17. Emergency Service	_____	_____	_____
		_____	
		Email _____	
18. Filing and Payment of Regulatory Fees to Utilities Commission	_____	_____	_____
		_____	
		Email _____	

**OTHER PROVISIONS**

- 19. Applicant must notify the Commission in writing within 30 days if any information supplied on this form changes in the future.
- 20. Applicant must also file quarterly Regulatory Fee Reports and make regulatory fee payments. Details are set out in NCUC Rule R15-1.

**REQUIRED EXHIBITS**

- 21. If the Applicant is a corporation, LLC, LP, or other legal business entity, enclose a copy of the certification from the North Carolina Secretary of State (Articles of Incorporation or Application for Certificate of Authority for Limited Liability Company, etc.). **(Must match name on Line 1 of application.)**
- 22. If the Applicant is a partnership, enclose a copy of the partnership agreement. **(Must match name on Line 1 of application.)**
- 23. Enclose a copy of a Warranty Deed showing that the Applicant has ownership of all the property necessary to operate the utility. **(Must match name on Line 1 of application.)**
- 24. Enclose a vicinity map showing the location of the apartment complex in sufficient detail for someone not familiar with the county to locate the apartment complex. (A county roadmap with the apartment complex outlined is suggested.)
- 25. Enclose a copy of the supplier's schedule of rates that will be charged to the Applicant for purchased power.

- 26. Enclose a copy of any agreements or contracts that the Applicant has entered into covering the provision of billing and collections services to the apartment complex.
- 27. Indicate the number of apartment buildings to be served, the number of units in each apartment building and the number of bedrooms in each unit.
- 28. Enclose a copy of the template or form used for billing statements.
- 29. Enclose a copy(ies) of the form(s) used for leases to tenants, including a statement of which parts of the lease relate to billing for electric service.

**FILING INSTRUCTIONS**

- 30. Submit one (1) original application with required exhibits and **original notarized signature**, plus seven (7) additional collated copies to: [USPS address] **Chief Clerk's Office, North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325**, or [overnight delivery or hand delivery at street address] **Chief Clerk's Office, North Carolina Utilities Commission, 430 North Salisbury Street, Raleigh, North Carolina 27603**. Provide a self-addressed stamped envelope, plus an additional copy, if a file-stamped copy is requested by the Applicant.
- 31. Enclose a filing fee as required by G.S. 62-300. A Class A utility (annual electricity reseller revenues of \$1,000,000 or more) requires a \$250 filing fee. A Class B utility (annual electricity reseller revenues between \$200,000 and \$1,000,000) requires a \$100 filing fee. A Class C utility (annual electricity reseller revenues less than \$200,000) requires a \$25 filing fee. **MAKE CHECK PAYABLE TO N.C. DEPARTMENT OF COMMERCE/UTILITIES COMMISSION.**

**SIGNATURE**

- 32. Application shall be signed and verified by an authorized representative of the Applicant.

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

- 33. (Typed or Printed Named) \_\_\_\_\_  
personally appearing before me and, being first duly sworn, says that the information contained in this application and in the exhibits attached hereto is true to the best of his/her knowledge and belief.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_

Notary Public

My Commission Expires: \_\_\_\_\_

Date

(NOTARY SEAL)

SELLER DOCKET NO.	ER-_____
PURCHASER DOCKET NO.	ER-_____
FILING FEE RECEIVED	_____

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

APPLICATION FOR TRANSFER OF AUTHORITY TO RESELL ELECTRIC SERVICE FOR APARTMENT COMPLEXES

**INSTRUCTIONS**

If additional space is needed, supplementary sheets may be attached. If any section does not apply, write "not applicable".

**SELLER**

1. Name of current certified owner \_\_\_\_\_
2. Mailing address \_\_\_\_\_
3. Business telephone number \_\_\_\_\_

**PURCHASER**

4. Name of purchaser \_\_\_\_\_
5. Business mailing address of purchaser \_\_\_\_\_  
     City and state \_\_\_\_\_ Zip code \_\_\_\_\_
6. Business telephone number \_\_\_\_\_ Business fax number \_\_\_\_\_
7. Business email address \_\_\_\_\_

**UTILITY SERVICE AREA**

8. Street Address of Apartment Complex \_\_\_\_\_
9. Name of Apartment Complex \_\_\_\_\_
10. County (or counties) \_\_\_\_\_
11. Supplier of purchased power \_\_\_\_\_

**RESALE PROVISIONS**

12. Describe the method Applicant proposes to use to allocate the supplier's individual electric bill for a unit among all the tenants in the unit (NCUC Rule R22-5): \_\_\_\_\_  
 \_\_\_\_\_
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 Number of days after mailing or other delivery of bills at which the late fee begins to apply: \_\_\_\_\_  
 (See NCUC Rule R22-5(e) and (7)(e).)
16. Statement of the Applicant's plans for retention and availability of records (see NCUC Rule R22-6(a) and (b)): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**PERSONS TO CONTACT**

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		_____	
		Email _____	
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		_____	
		Email _____	
19. Emergency Service	_____	_____	_____
		_____	
		Email _____	
20. Filing and Payment of Regulatory Fees to Utilities Commission	_____	_____	_____
		_____	
		Email _____	

**OTHER PROVISIONS**

- 21. Applicant must notify the Commission in writing within 30 days if any information supplied on this form changes in the future.
- 22. Applicant must also file quarterly Regulatory Fee Reports and make regulatory fee payments. Details are set out in NCUC Rule R15-1.

**REQUIRED EXHIBITS**

- 23. If the Applicant is a corporation, LLC, LP, or other legal business entity, enclose a copy of the certification from the North Carolina Secretary of State (Articles of Incorporation or Application for Certificate of Authority for Limited Liability Company, etc.). **(Must match name on Line 1 of application.)**
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- 28. Enclose a copy of any agreements or contracts that the Applicant has entered into covering the provision of billing and collections services to the apartment complex.
- 29. Indicate the number of apartment buildings to be served, the number of units in each apartment building and the number of bedrooms in each unit.
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- 33. Enclose a filing fee as required by G.S. 62-300. A Class A utility (annual electricity reseller revenues of \$1,000,000 or more) requires a \$250 filing fee. A Class B utility (annual electricity reseller revenues between \$200,000 and \$1,000,000) requires a \$100 filing fee. A Class C utility (annual electricity reseller revenues less than \$200,000) requires a \$25 filing fee. **MAKE CHECK PAYABLE TO N.C. DEPARTMENT OF COMMERCE/UTILITIES COMMISSION.**

**SIGNATURE**

- 34. Application shall be signed and verified by an authorized representative of the Applicant.

Signature \_\_\_\_\_  
 Printed Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

- 35. (Typed or Printed Named) \_\_\_\_\_  
 personally appearing before me and, being first duly sworn, says that the information contained in this application and in the exhibits attached hereto is true to the best of his/her knowledge and belief.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
Date

(NOTARY SEAL)