

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. M-100, SUB 142

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Implementation of House Bill 356 – An Act)	
to Clarify the Cap on the Utilities Regulatory)	ORDER FURTHER AMENDING
Fee Reserve, to Set the Regulatory Fee in)	COMMISSION RULE R15-1
Statute, and to Allow the Commission to)	
Raise or Lower the Fee)	

BY THE COMMISSION: On June 30, 2015, North Carolina Session Law 2015-134, House Bill 356 (HB 356), An Act to Clarify the Cap on the Utilities Regulatory Fee Reserve, to Set the Regulatory Fee in Statute, and to Allow the Commission to Raise or Lower the Fee, was signed into law, having previously been ratified by the North Carolina General Assembly.

HB 356, among other things, made changes to the general statutes concerning the regulatory fee for public utilities and how the regulatory fee is adjusted.

By Order dated July 21, 2015, the Commission initiated a generic proceeding and requested comments from the parties.

On August 15, 2016, the Commission issued an Order Amending Commission Rule R15-1 to reflect the directives in HB 356. The Order, among other things, noted that on July 11, 2016, the Commission issued an Order in Docket No. M-100, Sub 142 setting the regulatory fee rate at 0.14% for noncompetitive jurisdictional revenues, effective July 1, 2016.

Further, under Commission Rule R15-1, as revised by the Commission in the August 15, 2016 Order, the Commission would issue an order every year establishing the regulatory fee rate for noncompetitive jurisdictional revenues for the upcoming fiscal year (July 1 through June 30). In addition, the Commission, in the August 15, 2016 Order, added language to Commission Rule R15-1 to reflect that Commission orders setting the regulatory fee rate would be issued in Docket No. M-100, Sub 142. The Commission also added language to note that if there would be no change made to the regulatory fee rate on noncompetitive jurisdictional revenues for the upcoming fiscal year, then the Commission would issue an Order in Docket No. M-100, Sub 142 acknowledging that there would be no change in the rate for the next fiscal year.

The Commission, on its own motion, finds it appropriate to further amend Commission Rule R15-1 to remove the language specifying that the Commission will

enter an Order each year, prior to July 1st, as appropriate, indicating that there will be no change in the regulatory fee rate for noncompetitive jurisdictional revenues. Any increase or decrease in the regulatory fee rate for noncompetitive jurisdictional revenues will be authorized by Commission Order, however, if no change will be made to the rate in a given year, the Commission will not be issuing an order noting that fact.

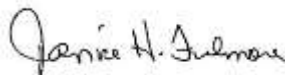
Therefore, the Commission has amended Commission Rule R15-1, as shown in Appendix A. Appendix B includes a clean copy of the current version of Commission Rule R15-1 as authorized by this Order, effective *nunc pro tunc* to August 15, 2016.

IT IS, THEREFORE, ORDERED that Commission Rule R15-1 – Regulatory Fee is hereby further amended as reflected in Appendix B of this Order, effective *nunc pro tunc* to August 15, 2016.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of July, 2017.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, appearing to read "Janice H. Fulmore". The signature is written in a cursive, flowing style.

Janice H. Fulmore, Deputy Clerk

Rule R15-1. Regulatory fee.

(a) *Fee Imposed.* G.S. 62-302 requires each public utility regulated by the North Carolina Utilities Commission to pay a quarterly regulatory fee to the Commission, which 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 and to maintain a reasonable margin for a reserve fund.

The electric membership corporation regulatory fee for each fiscal year is two hundred thousand dollars (\$200,000).

(b) *Procedure for Setting the Regulatory Fee Rate.* In the first half of each calendar year, the Commission shall review the estimated cost of operating the Commission and the Public Staff for the next fiscal year, including a reasonable margin for the reserve fund allowed under G.S. 62-302, and shall, if there is a change in the regulatory fee rate or other reason, enter an order setting the regulatory fee rate effective for the next fiscal year. In making this determination, the Commission shall consider all relevant factors that may affect the cost of operating the Commission or the Public Staff or a possible unanticipated change in competitive and noncompetitive jurisdictional revenues.

If the estimated receipts provided for under this section are less than the estimated cost of operating the Commission and the Public Staff for the next fiscal year, including the reasonable margin for the reserve fund, then the Commission may issue an order in Docket No. M-100, Sub 142 increasing the public utility regulatory fee rate on noncompetitive jurisdictional revenues effective for the next fiscal year. In no event may

the percentage rate of the public utility regulatory fee on noncompetitive jurisdictional revenues exceed seventeen and one-half hundredths of one percent (0.175%).

If the estimated receipts provided for under this section are more than the estimated cost of operating the Commission and the Public Staff for the next fiscal year, including the reasonable margin for the reserve fund, then the Commission shall issue an order in Docket No. M-100, Sub 142 decreasing the public utility regulatory fee rate on noncompetitive jurisdictional revenues effective for the next fiscal year.

~~If no change will be made to the regulatory fee rate on noncompetitive jurisdictional revenues, then the Commission will issue an Order in Docket No. M-100, Sub 142 acknowledging that there will be no change in the rate effective for the next fiscal year.~~

(c) *Definitions.* As used in this rule:

(1) "Noncompetitive jurisdictional revenues" means all 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. For telecommunications companies, all revenues and other receipts derived from access charges¹ are to be included as noncompetitive jurisdictional revenues.

(2) "Subsection (h) competitive jurisdictional revenues" means all revenues derived from retail services provided by local exchange companies and competing local

¹ On September 12, 2016, the Commission issued an Errata Order in this docket. The Errata Order removed the phrase "intrastate switched" from the definition of noncompetitive jurisdictional revenues referenced in Commission Rule R15-1(c)(1) as outlined in the August 15, 2016 Order.

providers that have elected to operate under G.S. 62-133.5(h), including all revenues and other receipts derived from yellow pages advertising.

(3) "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), including all revenues and other receipts derived from yellow pages advertising.

(d) *When Due.* The regulatory fee imposed by G.S. 62-302 is due and payable to the Commission on or before the 15th day of the second month following the end of each quarter. Each public utility subject to the regulatory fee shall, on or before the date the fee is due for each quarter, prepare and file a report, either electronically on the Commission's website or by hard copy, on the form prescribed by the Commission. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter. Receipts shall be reported on an accrual basis. The form of the report shall be posted on the Commission's website at <http://www.ncuc.net/regfeereporting.html>.

If a public utility's report for the first quarter of any fiscal year shows that application of the percentage rate would yield a quarterly fee of six dollars and twenty-five cents (\$6.25) or less, the public utility shall pay an estimated fee for the entire fiscal year in the amount of twenty-five dollars (\$25.00) (\$6.25 x 4). The estimated fee of \$25.00 is on a per company basis. If, after payment of the estimated fee, the public utility's subsequent returns show that application of the percentage rate would yield quarterly fees that total more than twenty-five dollars (\$25.00) for the entire fiscal year, the public utility shall pay the cumulative amount of the fee resulting from application of the percentage rate, to the extent it exceeds the amount of fees, other than any surcharge, previously paid.

(e) *Use of Proceeds.* A special fund in the Office of the State Treasurer, the "Utilities Commission and Public Staff Fund," shall be created. The fees collected pursuant to G.S. 62-302 and all other funds received by the Commission and the Public Staff shall be deposited in the Utilities Commission and Public Staff Fund. The Fund shall be placed in an interest bearing account and any interest or other income derived from the Fund shall be credited to the Fund. Monies in the Fund shall only be spent pursuant to appropriation by the General Assembly.

The Utilities Commission and Public Staff Fund shall be subject to the provisions of the Executive Budget Act except that no unexpended surplus of the Fund shall revert to the General Fund. All funds credited to the Utilities Commission and Public Staff Fund 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 as provided by Chapter 62 of the North Carolina General Statutes.

(f) *Supporting Data.* Upon request of the Commission or the Public Staff, a utility shall supply supporting data and workpapers substantiating its Public Utility Regulatory Fee Report (NCUC FORM RF).

Utilities now filing quarterly reports with the Commission in compliance with the Commission's ongoing surveillance program (NCUC FORMS E.S.-1 and G.S.-1) shall include as part of those quarterly reports a schedule setting forth a detailed reconciliation of the noncompetitive jurisdictional revenues reflected in those reports to the level of noncompetitive jurisdictional revenues reflected in the Public Utility Regulatory Fee Report (NCUC FORM RF) for the same quarterly reporting period.

Utilities not now filing quarterly reports shall include as part of their annual reports to be filed with the Commission a schedule setting forth a detailed reconciliation of the total noncompetitive jurisdictional revenues reflected in those annual reports to the level of noncompetitive jurisdictional revenues reflected in the four quarterly Public Utility Regulatory Fee Reports encompassed by the 12-month period on which the annual report is based.

(g) *Failure to File.* Failure to complete and file the Public Utility Regulatory Fee Report (NCUC FORM RF) and pay the regulatory fee as prescribed may result in the imposition of a penalty, a fine, and/or cancellation of certificate.

(h) *Procedure to Reflect Regulatory Fee Change.* Effective July 1, 2015, if the rates of a utility include the regulatory fee, upon any change in the regulatory fee, rates shall be adjusted to reflect the change in the regulatory fee as follows:

- a. If a utility requests authority to adjust its base rates for a change in the regulatory fee obligation, the Commission shall issue an order authorizing the change in base rates. The Public Staff shall make a determination on the accuracy of the utility's requested change to its base rates and shall file with the Commission the results of the Public Staff's review within 15 days of the utility's request.

- b. If a utility does not file a request under subdivision (a), rates shall be adjusted in the next proceeding changing the utility's base rates or rider rates. A utility shall defer in a regulatory asset or regulatory liability account the difference between the regulatory fee included in base rates or rider rates and the new regulatory fee. The disposition of any deferral shall be addressed in the utility's next general rate case.

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