

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 457

Short Title: Municipal Electric Utilities/UC Oversight. (Public)

Sponsors: Representatives Farmer-Butterfield, Tolson, Collins, and Bryant (Primary Sponsors).

For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Public Utilities.

March 24, 2011

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT MUNICIPAL ELECTRIC UTILITIES SHALL BE SUBJECT TO OVERSIGHT BY THE UTILITIES COMMISSION AS TO RATES AND SERVICE AND THAT THE UTILITIES COMMISSION PUBLIC STAFF SHALL SERVE AS AN ADVOCATE FOR MUNICIPAL CUSTOMERS IN RATE AND SERVICE CASES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 62-3(23)d. reads as rewritten:

"d. The term "public utility," except as otherwise expressly provided in this Chapter, shall not include a municipality, except a municipality shall be subject to Commission oversight as provided in G.S. 62-55, an authority organized under the North Carolina Water and Sewer Authorities Act, electric or telephone membership corporation; or any person not otherwise a public utility who furnishes such service or commodity only to himself, his employees or tenants when such service or commodity is not resold to or used by others; provided, however, that any person other than a nonprofit organization serving only its members, who distributes or provides utility service to his employees or tenants by individual meters or by other coin-operated devices with a charge for metered or coin-operated utility service shall be a public utility within the definition and meaning of this Chapter with respect to the regulation of rates and provisions of service rendered through such meter or coin-operated device imposing such separate metered utility charge. If any person conducting a public utility shall also conduct any enterprise not a public utility, such enterprise is not subject to the provisions of this Chapter. A water or sewer system owned by a homeowners' association that provides water or sewer service only to members or leaseholds of members is not subject to the provisions of this Chapter."

**SECTION 2.** G.S. 62-15(d) is amended by adding a new subdivision to read as

follows:

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

...



1           (13) Perform the duties described in subdivisions (1), (2), (3), (4), (6), and (7) of  
2           this subsection in matters related to municipal electric utilities established  
3           pursuant to G.S. 160A-311(1)."

4           **SECTION 3.** Article 3 of Chapter 62 of the General Statutes is amended by adding  
5 a new subsection to read as follows:

6 **"§ 62-55. Oversight of municipal electric utilities; rates and service.**

7           The Commission shall have oversight of rates for electric service established by and service  
8           furnished by a municipality, including a municipality that is a member of a joint municipal  
9           power agency under Chapter 159B of the General Statutes, operating a municipal electric utility  
10           pursuant to G.S. 160A-311(1). In determining whether the rates for electric service established  
11           by the municipality are fair both to the municipality as operator of the electric utility and to the  
12           consumer, the Commission shall consider the factors provided in G.S. 62-133 and G.S. 62-134.  
13           If, after a hearing conducted pursuant to Article 4 of Chapter 62 of the General Statutes, the  
14           Commission finds that the rates established are not just and reasonable, the Commission shall  
15           enter an order fixing just and reasonable rates for the municipal electric utility. In determining  
16           matters related to service furnished by the municipal electric utility, the Commission shall  
17           consider the factors provided in G.S. 62-42. If, after a hearing conducted pursuant to Article 4  
18           of Chapter 62 of the General Statutes, the Commission finds that the service furnished by the  
19           municipal electric utility is inadequate, the Commission shall enter an order directing changes  
20           or improvements in service as provided in G.S. 62-42."

21           **SECTION 4.** G.S. 160A-312 reads as rewritten:

22 **"§ 160A-312. Authority to operate public enterprises.**

23           ...

24           (d) Notwithstanding the provisions of this section, the North Carolina Utilities  
25           Commission shall have oversight of the service furnished by a municipal electric utility as  
26           provided in G.S. 62-55."

27           **SECTION 5.** G.S. 160A-314 reads as rewritten:

28 **"§ 160A-314. Authority to fix and enforce rates.**

29           (a) A-Except as provided in subsection (f) of this section, a city may establish and  
30           revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or  
31           the services furnished by any public enterprise. Schedules of rents, rates, fees, charges, and  
32           penalties may vary according to classes of service, and different schedules may be adopted for  
33           services provided outside the corporate limits of the city.

34           ...

35           (f) The North Carolina Utilities Commission shall have oversight of the rates  
36           established by a city for a municipal electric utility as provided in G.S. 62-55."

37           **SECTION 6.** This act applies only to the cities and towns in eastern North Carolina  
38 that comprise the North Carolina Eastern Municipal Power Agency (NCEMPA) on the date  
39 this act becomes law.

40           **SECTION 7.** This act becomes effective October 1, 2011, and applies to all rates  
41 for electric service established and all service provided by a NCEMPA member city or town on  
42 or after that date.