

Chapter 22
Provision of Electric Service by Landlords

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Rule R22-1. Application.

Pursuant to G.S. 62-110(g1), 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. (NCUC Docket No. ER-100, Sub 0, 08/17/11.)

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.

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

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

(NCUC Docket No. ER-100, Sub 0, 08/17/11.)

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 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 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.

(NCUC Docket No. ER-100, Sub 0, 08/17/11.)

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 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;
- (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.

(NCUC Docket No. ER-100, Sub 0, 08/17/11.)

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 bill charged by the supplier for the unit as a whole 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;
- (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 individual 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.

(NCUC Docket No. ER-100, Sub 0, 08/17/11.)

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 shall be kept at the office or offices of the provider in North Carolina, or shall be made available at its office in North Carolina upon request, and shall be available during regular business hours for examination by the Commission or Public Staff or their duly authorized representatives. Within three business days after a written request to the provider, a customer may examine the records pertaining to the customer's account, including the actual per unit public utility, agency or organization billings, during regular business hours at the provider's office in North Carolina and 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.

(NCUC Docket No. ER-100, Sub 0, 08/17/11.)

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 shall be allowed.

(c) No provider may disconnect electric service for nonpayment.

(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)).

(NCUC Docket No. ER-100, Sub 0, 08/17/11.)