

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. WR-100, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Rulemaking to Implement North Carolina)	ORDER INITIATING
Session Law 2009-279 (Senate Bill 661))	RULEMAKING PROCEEDING

BY THE COMMISSION: On July 10, 2009, North Carolina Session Law 2009-279 (Senate Bill 661) was signed into law. The legislation provided that it would become effective on October 1, 2009.

The Commission has found that the legislation may be implemented by the establishment of a new Rule R18-8 and a reference to Rule R18-8 from Rule R18-6. Whereupon, the Commission finds good cause to initiate a rulemaking proceeding to implement North Carolina Session Law 2009-279 and, after receiving comments from interested parties, to adopt certain proposed rules.

IT IS, THEREFORE, ORDERED as follows:

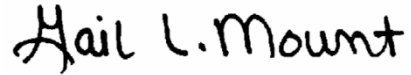
1. That the proposed revision to Rule R18-6 and the establishment of Rule R18-8, attached as Appendix A, are hereby adopted on an interim basis effective as of the date of this Order pending completion of this rulemaking proceeding.
2. That the Chief Clerk shall serve a copy of this Order on all providers charging for water and/or sewer utility service pursuant to certificates of authority granted by the Commission pursuant to G.S. 62-110(g) and Chapter 18 of the Commission's Rules and Regulations, all providers with pending applications seeking such certificates of authority, and the Attorney General.
3. That interested parties who desire to comment shall file petitions to intervene and their comments in Docket No. WR-100, Sub 7, not later than Friday, October 16, 2009.

4. That, absent adverse comments and petition to intervene by interested parties, the interim rules shall be adopted as the permanent rules on October 16, 2009.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of September, 2009.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Gail L. Mount". The signature is written in a cursive style with a large initial "G".

Gail L. Mount, Deputy Clerk

rb092909.01

Chapter 18.

Provision of Water and Sewer Service by Landlords.

Rule R18-1. Application.

This Chapter governs charging for the costs of providing water or sewer utility service as authorized by G.S. 62-110(g).

Rule R18-2. Definitions.

(a) *Same contiguous premises.* An apartment complex or manufactured home park located on property that is not separated by property owned by others. Property will be considered contiguous even if intersected by a public thoroughfare if, absent the thoroughfare, the property would be contiguous.

(b) *Provider.* The landlord purchasing water or sewer utility service from a supplier and charging for the costs of providing the service or services to tenants. The provider shall be the owner of the premises served.

(c) *Supplier.* A public utility or an agency or organization exempted from regulation from which a provider purchases water or sewer service.

(d) *Tenant.* The lessee of property from the landlord, to whom the water or sewer service purchased by the provider from the supplier is provided.

(e) *Apartment complex.* Premises where one or more buildings under common ownership comprising fifteen (15) or more apartments are available for rental to tenants.

(f) *Manufactured home park.* Premises where a combination of fifteen (15) or more manufactured homes, as defined in G.S. 143-145(7), or spaces for manufactured homes, are rented to or are available for rental to tenants.

(g) *Supplier's base charge.* The fixed charge imposed by the supplier for providing water and sewer utility service to the provider. This charge may include charges related to the provision of utility service such as the cost of meter reading, billing, and collecting, but may not include charges not related to the provision of utility service, such as stormwater fees, trash collection, or property taxes.

Rule R18-3. Utility status; certificate; bonds.

Every provider is a public utility as defined by G.S. 62-3(23)a.2 and shall comply with all applicable provisions of the Public Utilities Act and all applicable rules and regulations of the Commission. No provider shall begin charging for the costs of

providing water or sewer service prior to applying for and receiving a certificate of authority from the Commission. No provider shall be required to post a bond pursuant to G.S. 62-110.3.

Every application for authority to charge for the costs of providing water or sewer service shall be in such form and detail as the Commission may prescribe and shall include (a) a description of the applicant and the property to be served, (b) a description of the proposed billing method and billing statements, (c) a schedule of the rates charged to the applicant by the supplier, (d) the schedule of rates the applicant proposes to charge the applicant's customers, (e) the administrative fee proposed to be charged by the applicant, (f) the name of and contact information for the applicant and its agents, (g) the name of and contact information for the supplying water or sewer system, and (h) any additional information that the Commission may require. The Commission shall approve or disapprove an application within 30 days of the filing of a completed application with the Commission. If the Commission has not issued an Order disapproving a completed application within 30 days, the application shall be deemed approved.

Rule R18-4. Compliance with rules.

Every provider shall comply with any applicable rules of local governmental agencies regarding the provision of water or sewer service.

Rule R18-5. Records, reports and fees.

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

(b) Providers shall not be required to file an annual report to the Commission as required by Chapter 1, Rule R1-32 of the Rules and Regulations of the North Carolina Utilities Commission. Providers shall pay a regulatory fee and file a regulatory fee report as required by Chapter 15, Rule R15-1. Special reports shall also be made concerning any particular matter upon request by the Commission.

Rule R18-6. Rates.

(a) The rates shall equal the cost of purchased water or sewer service (The usage rate charged by the provider shall equal the usage rate charged by the supplier.). A Commission-approved administrative fee not to exceed \$3.75 may be added to the cost of purchased water and sewer service to compensate the provider for meter reading, billing, and collection. A provider whose schedule of rates and fees does not

include a separate base charge to the tenant may request approval of an administrative fee greater than \$3.75 to recover the base charge from its supplier. With the exception of base charges approved before August 1, 2004, all charges other than the administrative fee shall be based on tenants' metered consumption of water. All sewer service shall be measured based on the amount of water metered. Metered consumption of water shall be determined by metered measurement of all water consumed by the tenant, and not by any partial measurement of water consumption (i.e., ratio utility billing system (RUBS) and hot water capture, cold water allocation (HWCCWA) are not allowed), unless specifically authorized by the Commission (See Rule R18-8).

(b) A provider of water or sewer service may track increases in the unit consumption rate charged by the supplier of such service, and may (subject to limitations imposed by Commission Rules) change its administrative fee, by filing with the Commission a notification of revised schedule of rates and fees. Every notification of revised schedule of rates and fees shall be in such form and detail as the Commission may prescribe and shall include (1) the current schedule of the unit consumption rates charged by the provider, (2) the schedule of unit consumption rates charged by the supplier to the provider that the provider proposes to pass through to the provider's customers, (3) the schedule of the unit consumption rates proposed to be charged by the provider, (4) the current administrative fee charged by the provider, and, if applicable, (5) the administrative fee proposed to be charged by the provider. Any such notification of revised schedule of rates and fees shall be presumed valid and shall be allowed to become effective simultaneously with the increase in the unit consumption rate of the supplier upon 14 days notice to the Commission, unless otherwise suspended or disapproved by Commission Order issued within 14 days after filing.

(c) Every request for approval of an administrative fee in excess of \$3.75 shall include (1) the provider's cost of meter reading, billing, and collection, (2) the current or proposed base charge from the supplier, (3) the number of tenants to whom water or sewer service is provided, and (4) the proposed administrative fee. Any such request shall be suspended for a period of 30 days after filing.

(d) No provider shall charge or collect any greater or lesser compensation for the costs of providing water or sewer service than the rates approved by the Commission.

Rule R18-7. Disconnection; billing procedure; meter reading.

(a) No charge for connection or disconnection, charge for late payment, or similar charge in addition to the rate specified in Rule R18-6 shall be allowed.

(b) No provider may disconnect water or sewer service for nonpayment.

(c) Bills shall be rendered at least monthly.

(d) The date after which a bill for water or sewer utility service is due, or the past due after date, shall be disclosed on the bill and shall not be less than twenty-five (25) days after the billing date.

(e) A provider shall not bill for or attempt to collect for excess usage resulting from a plumbing malfunction or other condition which is not known to the tenant or which has been reported to the provider.

(f) Every provider shall provide to each customer 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.

(2) A copy of these rules and regulations.

(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 (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.

(g) Each provider shall adopt some means of informing its tenants as to the method of reading meters. Information on bills shall be governed by Chapter 7, Rule R7-23 and Chapter 10, Rule R10-19. Additionally, the bill shall contain a toll-free phone number for contacting the provider or the agent regarding service or billing matters. Adjustment of bills for meter error shall be governed by Chapter 7, Rule R7-25. Testing of water meters shall be governed by Chapter 7, Rules R7-28 through R7-33.

Rule R18-8. Hot water capture, cold water allocation

Pursuant to Session Law 2009-279, if the contiguous premises were built prior to 1989, and the provider determines that, due to the plumbing configuration of the building, measurement of the tenant's total water usage is impractical or is not economical, the provider may estimate each tenant's total water usage based upon the hot water usage of each tenant as a percentage of all tenant's hot water usage.

The provider must file the appropriate application (Application for Certificate of Authority to Charge for Water and/or Sewer Service Utilizing the Hot Water Capture, Cold Water Allocation Method and for Approval of Rates for Apartment Complexes and Manufactured Home Parks) and receive Commission authorization prior to commencing utilization of the hot water capture, cold water allocation method of estimating water usage.

The provider shall furnish a water/sewer utility bill to the tenants which states that the hot water capture, cold water allocation method of estimating the bill has been utilized and contains the following information each billing period:

1. Total amount of water purchased by the provider.
2. Total amount of water purchased less 20% for common area usage and leakage.
3. Total amount of hot water measured for all tenants.
4. Amount of hot water measured for the individual tenant.
5. Amount of water the individual tenant is being billed.
6. Amount owed for the current billing period.
7. Beginning and ending dates for the billing period.
8. Past due date.
9. A local or toll-free telephone number and address that the tenant can use to obtain more information about the bill.

The provider shall not utilize a ratio utility billing system or other allocation billing system that does not rely on individually submetered hot water usage to determine the allocation of water and sewer usage.

The provider shall not include in a tenant's bill the cost of water and sewer service used in common areas or water loss due to leaks in the provider's water mains. A provider shall not bill or attempt to collect for excess water usage resulting from a plumbing malfunction or other condition that is not known to the tenant or that has been reported to the provider.