

27 NCAC 01D .3205 STANDARDS FOR CERTIFICATION AS A SPECIALIST IN UTILITIES LAW

Each applicant for certification as a specialist in utilities law shall meet the minimum standards set forth in Rule .1720 of this Subchapter. In addition, each applicant shall meet the following standards for certification in utilities law:

(a) **Licensure and Practice** - An applicant shall be licensed and in good standing to practice law in North Carolina as of the date of application. An applicant shall continue to be licensed and in good standing to practice law in North Carolina during the period of certification.

(b) **Substantial Involvement** - An applicant shall affirm to the board that the applicant has experience through substantial involvement in utilities law.

- (1) Substantial involvement shall mean that during the five years immediately preceding the application, the applicant devoted an average of at least 500 hours a year to the practice of utilities law but not less than 400 hours in any one year.
- (2) Practice shall mean substantive legal work in utilities law done primarily for the purpose of providing legal advice or representation, including the activities described in Paragraph (3), or a practice equivalent as described in Paragraph (4).
- (3) Substantive legal work in utilities law includes, but is not limited to, practice before or representation in matters relative to the Commission, Federal Energy Regulatory Commission (FERC), Federal Communications Commission (FCC), Nuclear Regulatory Commission (NRC), Pipeline and Hazardous Materials Safety Administration (PHMSA), North Carolina Department of Environment and Natural Resources (NCDENR), North American Electric Reliability Corporation, utilities commissions of other states, and related state and federal regulatory bodies as well as participation in committee work of organizations or continuing legal education programs that are focused on subject matter involved in practice before the Commission or related state and federal regulatory bodies.
- (4) "Practice equivalent" shall mean:
 - (A) Each year of service as a commissioner on the Commission during the five years prior to application may be substituted for a year of the experience necessary to meet the five-year requirement set forth in Rule .3205(b)(1).
 - (B) Each year of service on the legal staff of the Commission or of the Public Staff during the five years prior to application may be substituted for a year of the experience necessary to meet the five-year requirement set forth in Rule .3205(b)(1).

(c) **Continuing Legal Education** - To be certified as a specialist in utilities law, an applicant must have earned no less than 36 hours of accredited continuing legal education credits in utilities law and related fields during the three years preceding application. The 36 hours must include at least 18 hours in utilities law; the remaining 18 hours may be in related-field CLE. Utilities law CLE includes but is not limited to courses on the subjects identified in Rule .3202 and Rule .3205(b)(3) of this Subchapter. A list of the topics that qualify as related-field CLE shall be maintained by the board on its official website.

(d) **Peer Review** - An applicant must make a satisfactory showing of qualification through peer review. An applicant must provide the names of ten lawyers or judges who are familiar with the competence and qualification of the applicant in the specialty field. Written peer reference forms will be sent by the board or the specialty committee to each of the references. Completed peer reference forms must be received from at least five of the references. All references must be licensed and in good standing to practice law and must have significant legal or judicial experience in utilities law. An applicant consents to confidential inquiry by the board or the specialty committee to the submitted references and other persons concerning the applicant's competence and qualification.

- (1) A reference may not be related by blood or marriage to the applicant nor may the reference be a colleague at the applicant's place of employment at the time of the application.
- (2) The references shall be given on standardized forms provided by the board to each reference. These forms shall be returned to the board and forwarded by the board to the specialty committee.

(e) **Examination** - An applicant must pass a written examination designed to demonstrate sufficient knowledge, skills, and proficiency in the field of utilities law to justify the representation of special competence to the legal profession and the public.

- (1) **Terms** - The examination shall be given annually in written form and shall be administered and graded uniformly by the specialty committee.
- (2) **Subject Matter** - The examination shall test the applicant's knowledge and application of utilities law.

*History Note: Authority G.S. 84-23;
Approved by the Supreme Court June 9, 2016;
Amendments Approved by the Supreme Court: December 14, 2021.*