26 NCAC 03 .0103   COMMENCEMENT OF CONTESTED CASE: NOTICE AND FILING FEE

(a) A contested case in the Office of Administrative Hearings is commenced by the filing of a petition as required by G.S. 150B-23 and payment of the appropriate filing fee (if a fee is required by G.S. 150B-23.2).

(b) Within five days of filing a petition to commence a contested case, the Chief Administrative Law Judge shall assign an administrative law judge to the case. Within ten days of the filing of a petition commencing a contested case, the chief hearings clerk of the Office of Administrative Hearings shall serve a Notice of Contested Case Filing and Assignment upon all who are parties to the dispute. The notice shall contain the following:

(1) Name of case and date of filing;
(2) Name, address, and telephone number of the administrative law judge; and
(3) A request that the party send within 30 days a copy of the document constituting the agency action that caused the filing of the petition.

(c) In contested cases commenced by a person aggrieved involving the following causes of action, the petitioner shall pay a filing fee of one hundred twenty-five dollars ($125.00):

(1) Contested cases challenging certificate of need filed pursuant to G.S. 131E-188;
(3) Contested cases where the amount in controversy is fifty thousand dollars ($50,000) or greater.

(d) In contested cases commenced by a person aggrieved that do not involve the causes of action listed in Paragraph (c) of this Rule, the petitioner shall pay a fee of twenty dollars ($20.00).

(e) The filing fee shall be waived in a contested case in which the petition is filed *in forma pauperis* and supported by such proofs as are required in G.S. 1-110. A petitioner seeking to have the filing fee waived under this Paragraph shall file the appropriate OAH form with the chief hearings clerk simultaneously when filing the petition for a contested case.

(f) The filing fee shall be waived in a contested case involving a mandated federal cause of action.

(g) If the filing fee is not paid, or is paid in an incorrect amount, at the time of filing, the Office of Administrative Hearings shall notify the petitioner in writing and permit a late payment of the filing fee to be made within 60 days of the date the petition was filed. If the filing fee is not paid and good cause is not shown by the petitioner within the 60 days of the date of filing, the petition shall be dismissed by the Administrative Law Judge.

(h) The filing fee shall be reimbursed when applicable in accordance with Rule .0105(7) of this Section.

(i) The method of payment of the filing fee shall be:

(1) cash;
(2) money order;
(3) certified check; or
(4) check drawn on an attorney's trust or operating account.

*History Note:* Authority G.S. 150B-23; 150B-23.2; 150B-33; Eff. August 1, 1986; Amended Eff. October 1, 1991; November 1, 1987; September 1, 1986; Emergency Amendment Eff. October 1, 2009; Temporary Amendment Eff. December 1, 2009; Amended Eff. June 1, 2014; October 1, 2010; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016.