

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH50411-TBf-4 (02/01)

Short Title: Electric Co-Op/Electricities Assignment. (Public)

Sponsors: Representatives Cole and Brubaker (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE UTILITIES COMMISSION TO REASSIGN TERRITORIES OF ELECTRIC MEMBERSHIP CORPORATIONS TO MUNICIPAL ELECTRIC SUPPLIERS IN THE ABSENCE OF APPROVED TERRITORIAL AGREEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-331.2 reads as rewritten:

"§ 160A-331.2. Agreements of electric suppliers.

(a) The General Assembly finds and determines that, in order to avoid the unnecessary duplication of electric facilities and to facilitate the settlement of disputes between cities that are primary suppliers and other electric suppliers, it is desirable for the State to authorize electric suppliers to enter into agreements pursuant to which the parties to the agreements allocate to each other the right to provide electric service to premises each would not have the right to serve under this Article but for the agreement, provided that no agreement between a city that is a primary supplier and another electric supplier shall be enforceable by or against an electric supplier that is subject to the territorial assignment jurisdiction of the North Carolina Utilities Commission until the agreement has been approved by the Commission. The Commission shall approve an agreement entered into pursuant to this section unless it finds that such agreement is not in the public interest. Such agreements may allocate the right to serve premises by reference to specific premises, geographical boundaries, or amounts of unspecified load to be served, but no agreement shall affect in any way the rights of other electric suppliers who are not parties to the relevant agreement. The provisions of this section apply to agreements relating to electric service inside and outside the corporate limits of a city.

(b) During the period beginning June 1, 2005, and ending May 31, 2007, electric membership corporations and cities that own and maintain their own electric

1 distribution lines shall undertake good faith negotiations concerning the provision of
2 future electric services within areas outside of the corporate limits of ~~such~~ those cities as
3 of June 1, 2005, and the development of agreements relating to the provision of electric
4 services, the location of lines, and the areas within which electric services may be
5 provided by ~~such~~ these electric suppliers. To the extent ~~such~~ negotiations under this
6 subsection produce any agreements between the affected electric suppliers, ~~such~~ these
7 agreements shall be submitted to the North Carolina Utilities Commission for approval
8 under this section. ~~To the extent such negotiations do not produce an agreement and~~
9 ~~disputes among the suppliers remain as of May 31, 2007, such disputes shall be resolved~~
10 ~~pursuant to the provisions of G.S. 7A-38.3C(i).~~ To the extent negotiations under this
11 subsection do not produce an agreement establishing service areas that has been
12 submitted to the Commission by May 31, 2007, and thereafter approved, then either the
13 electric membership corporation or the city that owns and maintains its own electric
14 distribution lines shall be entitled to petition the Commission to exercise the authority
15 conferred under subsection (c) of this section to issue an order which establishes service
16 territories as between the electric membership corporation and city involved.

17 (c) An electric membership corporation, or a city that owns and maintains its
18 own electric distribution lines, may petition the North Carolina Utilities Commission
19 under this subsection at any time with respect to the provision of electric service within
20 any area not previously within the scope of a service area arising under or protected by a
21 service area agreement filed with and approved by the Commission under this section.
22 Upon the filing of a petition and the payment of a filing fee of five hundred dollars
23 (\$500.00) by either an electric membership corporation or a city, the Commission shall
24 have and exercise the authority to reassign some or all of the affected portion of the
25 previously assigned territory of the involved electric membership corporation as
26 territory to be served solely by the involved electric membership corporation, territory
27 to be served solely by the involved city, or territory to be designated as unassigned
28 territory and subject to customer choice as between the involved electric membership
29 corporation and the involved city. In making any such assignments or reassignments,
30 the Commission shall consider and apply the standards contained in G.S. 62-110.2(c)(1)
31 and shall also consider the geography of the affected area, the existing infrastructure to
32 provide service in or near that area, the investments previously made to provide service
33 within or near that area, the utilization of existing facilities already installed in or near
34 the affected area, the desires of consumers within the affected area, the engineering and
35 technical effects on the systems of the competing suppliers of providing service in or
36 near the affected area, and the potential adverse impact of loss of service territory by the
37 involved electric membership corporation. Any assignments or reassignments made by
38 order of the Commission under this subsection shall be and remain fully subject to the
39 provisions of G.S. 62-110.2(c) and (d), as supplemented by the factors enumerated in
40 this subsection. Assignments or reassignments made by the Commission under this
41 subsection shall be deemed to be a service area agreement approved pursuant to
42 subsection (a) of this section, and the service areas established by that order shall
43 survive annexation of all or any part of the affected territories assigned or reassigned in
44 that order."

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SECTION 2. This act is effective when it becomes law.