

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

3

HOUSE BILL 1395
Committee Substitute Favorable 7/18/07
Committee Substitute #2 Favorable 7/31/07

Short Title: Electric Suppliers/Electricities Assignment.

(Public)

Sponsors:

Referred to:

April 12, 2007

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE UTILITIES COMMISSION TO CONSIDER
2 DIFFERENCES BETWEEN ELECTRIC MEMBERSHIP CORPORATIONS AND
3 CITIES NOT RESOLVED PURSUANT TO G.S. 160A-331.2(B), AS ENACTED
4 BY S.L. 2005-150.

5 The General Assembly of North Carolina enacts:

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

7 **"§ 160A-331.2. Agreements of electric suppliers.**

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

25 (b) ~~During the period beginning June 1, 2005, and ending May 31, 2007, electric~~
26 ~~membership corporations and cities that own and maintain their own electric~~
27 ~~distribution lines shall undertake good faith negotiations concerning the provision of~~
28

1 ~~future electric services within areas outside of the corporate limits of such cities as of~~
2 ~~June 1, 2005, and the development of agreements relating to the provision of electric~~
3 ~~services, the location of lines, and the areas within which electric services may be~~
4 ~~provided by such electric suppliers. To the extent such negotiations produce any~~
5 ~~agreements between the affected electric suppliers, such agreements shall be submitted~~
6 ~~to the North Carolina Utilities Commission for approval under this section. To the~~
7 ~~extent such negotiations do not produce an agreement and disputes among the suppliers~~
8 ~~remain as of May 31, 2007, such disputes shall be resolved pursuant to the provisions of~~
9 ~~G.S. 7A 38.3C(i).~~

10 (c) To the extent negotiations undertaken pursuant to subsection (b) of this
11 section, as enacted by S.L. 2005-150, have not resulted in an agreement between a
12 negotiating electric membership corporation and a negotiating city by May 31, 2007,
13 jurisdiction shall immediately lie in the North Carolina Utilities Commission to resolve
14 all issues related to those negotiations. Either party to the negotiations may petition the
15 Commission to exercise the jurisdiction conferred in this subsection upon the filing of a
16 petition and the payment of a filing fee of five hundred dollars (\$500.00). In reaching its
17 decision, the Commission shall include consideration of the public convenience and
18 necessity. The Commission shall not consider rate differentials between the involved
19 city and the involved electric membership corporation.

20 (d) Notwithstanding an order of the Commission issued pursuant to subsection
21 (c) of this section:

22 (1) Any electric membership corporation or city may furnish electric
23 service to any consumer who desires service from that electric
24 membership corporation or city at any premises being served by
25 another electric membership corporation or city, or at premises which
26 another electric membership corporation or city has the right to serve
27 pursuant to subsection (c) of this section, upon agreement of the
28 affected electric membership corporation or city, subject to approval
29 by the Commission.

30 (2) The Commission shall have the authority and jurisdiction, after notice
31 to all affected electric membership corporations and cities and after a
32 hearing, if a hearing is requested by any affected electric membership
33 corporation or city, or any other interested party, to order any electric
34 membership corporation or city which may reasonably do so to furnish
35 electric service to any consumer who desires service from that electric
36 membership corporation or city at any premises being served by
37 another electric membership corporation or city pursuant to subsection
38 (c) of this section or subdivision (1) of this subsection, or which
39 another electric membership corporation or city has the right to serve
40 pursuant to subsection (c) of this section or subdivision (1) of this
41 subsection, and to order the other electric membership corporation or
42 city to cease and desist from furnishing electric service to such
43 premises, upon finding that service to the consumer by the electric
44 membership corporation or city which is then furnishing service, or

1 which has the right to furnish service to those premises, is or will be
2 inadequate or undependable, or that the rates, conditions of service, or
3 service regulations, applied to such consumer, are unreasonably
4 discriminatory.

5 (e) Assignments or reassignments made or approved by the Commission
6 pursuant to subsection (c) or (d) of this section shall be deemed to be service area
7 agreements approved pursuant to subsection (a) of this section."

8 **SECTION 2.** G.S. 117-10.2 reads as rewritten:

9 **"§ 117-10.2. Restriction on municipal service.**

10 Except as otherwise provided in this section, no electric membership corporation
11 shall furnish electric service to, or within the limits of, any incorporated city or town,
12 except pursuant to a franchise that may be granted under the provisions of
13 G.S. 117-10.1, or as permitted under G.S. 160A-331, ~~160A-331.1~~, 160A-331.2,
14 160A-332, and 160A-333. In addition, an electric membership corporation may furnish
15 electric service to, or within the limits of, any incorporated city or town if the city or
16 town and all electric suppliers, including public utilities, other electric membership
17 corporations and other cities or towns, then furnishing electric service to or within such
18 city or town consent thereto in writing."

19 **SECTION 3.** G.S. 117-10.3 and G.S. 160A-331.1 are repealed. Agreements
20 previously entered into pursuant to G.S. 117-10.3 and G.S. 160A-331.1 shall not be
21 affected by this repeal.

22 **SECTION 4.** G.S. 7A-38.3C is repealed. Any disputes submitted to the
23 Public Staff of the North Carolina Utilities Commission pursuant to G.S. 7A-38.3C(i)
24 are transferred to the North Carolina Utilities Commission to be considered by the
25 Commission pursuant to G.S. 160A-331.2(c), as enacted by this act, and the
26 Commission shall exercise its jurisdiction upon payment of the filing fee required by
27 that subsection by the petitioner.

28 **SECTION 5.** This act is effective when it becomes law.