

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1395

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

Sponsors: Representatives Cole, Brubaker (Primary Sponsors); Hilton, Hurley, Tarleton, Walker, and R. Warren.

Referred to: Public Utilities, if favorable, Judiciary II.

April 12, 2007

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE UTILITIES COMMISSION TO REASSIGN
2 TERRITORIES OF ELECTRIC MEMBERSHIP CORPORATIONS TO
3 MUNICIPAL ELECTRIC SUPPLIERS IN THE ABSENCE OF APPROVED
4 TERRITORIAL AGREEMENTS.
5

6 The General Assembly of North Carolina enacts:

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

8 **"§ 160A-331.2. Agreements of electric suppliers.**

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

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

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

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

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